88-1080

No. .....

Supreme Court, U.S.
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In The

Supreme Court of the United States

October Term, 1988

JIMMY SWAGGART, JIMMY SWAGGART MINISTRIES, INC., WILLIAM D. TREEBY, THE FIRST ASSEMBLY OF GOD CHURCH OF NEW ORLEANS, LOUISIANA, INC., LOUISIANA DISTRICT COUNCIL OF THE ASSEMBLIES OF GOD, INC., THE GENERAL COUNCIL OF THE ASSEMBLIES OF GOD, LAKEVIEW CHRISTIAN CENTER, CANAL ST. ASSEMBLY OF GOD, INC., MICHAEL INDEST, TOM MILLER, CECIL JANWAY, G. RAYMOND CARLSON, WALDO RISNER, ALLAN McDONNEL and DON BRANKEL,

Petitioners,

versus

DAVID V. ADLER, TRUSTEE IN BANKRUPTCY, IN THE MATTER OF MARVIN E. GORMAN AND VIRGINIA A. GORMAN, NO. 04024-K, AND IN THE MATTER OF MARVIN GORMAN MINISTRIES, INC. FORMERLY WHO CARES MINISTRIES, INC. NO. 04025-K,

Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT FOR THE STATE OF LOUISIANA

BRIEF FOR JIMMY SWAGGART AND JIMMY SWAGGART MINISTRIES, INC. IN SUPPORT FOR THE PETITION

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19 pp

QUESTION PRESENTED

Whether the exercise of jurisdiction over this lawsuit by the civil courts of Louisiana contravenes the First Amendment of the United States Constitution and the precedent of this Court and other federal courts by impermissibly interpreting church doctrine.

LIST OF PARTIES

At the time the judgment to be reviewed was rendered, all parties to the proceeding were listed in the caption.

Subsequent to the entry of that judgment, the following parties were added as defendants.

Frances Swaggart;
Forrest Hall;
United States Fidelity and Guaranty Company;
Fidelity & Guaranty Insurance Underwriters, Inc.;
State Farm Fire & Casualty Company;
First National Insurance Company of America;
Aetna Casualty & Sureties;
St. Paul Fire & Marine Insurance Company;
Preferred Risks Mutual Insurance Company;
Liberty Mutual Insurance Company;
The Travelers; and
Federal Insurance Corporation.

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OPINIONS BELOW

The order denying petitioner's application for writ of certiorari by the Louisiana Supreme Court was issued on September 23, 1988, and is reported as *Gorman et al. v. Swaggart, et al.*, 530 So.2d 574 (La. 1988). The opinion is reproduced in the Appendix commencing at page App. 1. The opinion of the Fourth Circuit Court of Appeals for the State of Louisiana is reported as *Gorman et al. v. Swaggart, et al.*, 524 So.2d 915 (La. App. 4th Cir. 1988), and is reprinted in the Appendix commencing on page App. 3. The denial of rehearing and rehearing *en banc* by the Court of Appeals is unpublished and is reprinted in the Appendix at page App. 21. The opinions of the Civil District Court for the Parish of Orleans, State of Louisiana, No. 87-5289 (1987), are unpublished, and appear in the Appendix commencing at page App. 22.

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JURISDICTION

This Petition for a writ of certiorari seeks review of the denial of a writ of certiorari to the Fourth Circuit Court of Appeals for the State of Louisiana which was entered by the Supreme Court of Louisiana on September 23, 1988. This petition for a writ of certiorari was filed within ninety days of September 23, 1988 as required by 28 U.S.C. § 2101(c) and Rule 20 of the Supreme Court Rules. Jurisdiction to review the judgment of the Louisiana Supreme Court by writ of certiorari is conferred on this Court by 28 U.S.C. § 1257(3) and by Rule 17.1(B) and (C) of the Supreme Court Rules.

CONSTITUTIONAL AMENDMENTS AND STATUTORY PROVISIONS

The First Amendment to the United States Constitution

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

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I. STATEMENT OF THE CASE

A. Preliminary Statement

Jimmy Swaggart and Jimmy Swaggart Ministries, Inc., ("JSM") (sometimes collectively referred to as "Petitioners"), apply for a writ of certiorari to review the denial of a writ of certiorari by the Louisiana Supreme Court in a matter entitled Marvin Gorman and Marvin Gorman Ministries v. Jimmy Swaggart *et al.*, 530 So.2d 574 (La. 1988). The denial of certiorari by the Louisiana Supreme Court makes final the judgment previously rendered by the Fourth Circuit Court of Appeals for the State of Louisiana, Gorman *et al.* v. Swaggart, *et al.*, 524

So.2d 915 (1988) in which that court held that the district court has subject matter jurisdiction over the plaintiffs' claims. Petitioners seek review of these rulings on the grounds that the exercise of jurisdiction over these claims by the civil courts of Louisiana contravenes the establishment clause of the First Amendment to the United States Constitution and the Supreme Court and federal appellate court cases interpreting the establishment clause.

B. Facts

The facts as stated in this writ application are taken from the Original Petition and First Supplemental and Amending Petition filed by the plaintiffs (sometimes collectively referred to as "petition"). The petitioners dispute the accuracy of the plaintiffs' allegations. However, for purposes of this brief, the well pleaded allegations of the petition will be taken as true.

1. The Parties

This litigation arises out of the actions and events surrounding the dismissal of Marvin Gorman ("Gorman") from the Assemblies of God ("AG") Church for conduct unbecoming to a minister and indiscretions involving morals. At the time the events complained of by the plaintiffs occurred, Gorman was an ordained minister of the AG, credentialed by the Louisiana District Council of the AG and the General Council of the AG.[1] He was the pastor of a local AG church, First Assembly of God Church of New Orleans, Inc., which was affiliated with the Louisiana District Council of the AG. App. 61. Furthermore, Gor-

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[1] App. 29-40.

man was a member of the Executive Presbytery, a thirteen-member board which governs the General Council of the AG. App. 62. Gorman also was president and founder of Marvin Gorman Ministries, Inc. ("MGM"), a television ministry. App. 61-62.

Plaintiffs complain that actions taken by Jimmy Swaggart and others have caused them damages of $90 million for past, present and future loss of integrity, mental distress, loss of income and consequential damages. App. 46-52, ¶¶ 24-27.[2] At the time of the events at issue, Jimmy Swaggart was an ordained minister, credentialed by the Louisiana District Council of the AG and the General Council of the AG. He is the president of JSM, co-petitioner on the application to this Court.[3] JSM is a ministry which, at the time this lawsuit was filed, was affiliated with the General Council of the AG. Jimmy Swaggart is also a minister of the gospel in a church in Baton Rouge, Louisiana, the Family Worship Center, which was affiliated with the Louisiana District Council of the AG. All of the actions allegedly performed by Rev. Swaggart were taken as a result of the fact that he was an ordained minis-

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[2] Although the plaintiffs have alleged that all of the defendants have conspired to cause them harm, they have asserted no facts in support of this conspiracy allegation.

[3] William Treeby, a member of the Board of Directors of JSM, is a co-defendant and has also petitioned this Court for a writ of certiorari. As demonstrated in that petition for certiorari, all actions taken by William Treeby are similarly protected and accordingly, serve no basis for the exercise of jurisdiction against JSM. Treeby is also a member of the Board of Directors of Lakeview Christian Center, another AG affiliated church named as a defendant in this lawsuit.

ter of the AG and a witness to the disciplinary allegations made against Gorman.

Several other AG officials, ministers, churches and church board members also were sued for actions they allegedly took during this controversy.

2. The Plaintiffs' Complaints

Gorman complains specifically that on July 15, 1986, he met with Jimmy Swaggart and others in order to discuss allegations of immoral conduct that had been made against Marvin Gorman. App. 62, ¶ 6. Gorman alleges that he admitted in the meeting to having engaged in immoral conduct with one woman approximately seven years earlier. *Id.* According to the petition, Swaggart accused Gorman of lying, and asked him to confess his sin, leave the ministry and seek rehabilitation. *Id.* Gorman refused. *Id.*

Apparently having changed his mind, Gorman alleges that he resigned the following day. App. 64, ¶ 7. In order to explain Gorman's resignation to the congregation of First Assembly of God Church, church officials read a statement which purportedly accused Gorman of adulterous and illicit affairs. *Id.* at ¶ 9. Gorman avers that Jimmy Swaggart and others prepared this statement. *Id.* The statement is not attached to the Petition or the Amended Petition, nor is it quoted in either of those pleadings.

The AG dismissed Gorman from its ministerial list on August 14, 1986. *Id.* at ¶ 10 and App. 83-84. Another statement dated September 2, 1986 was read to Gorman's former congregation due to "[a] continuation of com-

ments, conflicting statements, and misleading explanations" surrounding his termination. App. 86-91. Gorman alleges that this statement was "authored under the leadership and draftsmanship of Jimmy Swaggart" and others, and contained false statements by which he was defamed. App. 66-67, ¶ 13. He also claims that this statement was published throughout the AG congregations in Louisiana "and distributed by mail to all members of the Louisiana District Council as well as pastors of churches of other denominations, the general public, and . . . to missionaries abroad." App. 66, ¶ 12.

Gorman also alleges that prior to September 2, 1986, Rev. Swaggart wrote a letter to Cecil Janway, the Superintendent of the Louisiana District of the AG. In the letter, Rev. Swaggart urged Janway to handle Marvin Gorman's case "in exactly the same manner as any other minister of the Gospel in our District—no more, no less." App. 84-86.[4] Finally, Gorman alleges that Jimmy Swaggart and others spread other false and defamatory statements that harmed Gorman and his ministry. App. 65-73, ¶¶ 11, 15, 21, 22.

C. Proceedings Below

On March 24, 1987, Gorman and MGM filed a petition in Civil District Court for the Parish of Orleans, State

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[4] Gorman falsely alleges that Rev. Swaggart instructed Janway in that letter "that if the Louisiana District of Assemblies of God did not handle Marvin Gorman in a manner acceptable to Jimmy Swaggart, then Swaggart would take matters into his own hands." App. 65, ¶ 11. Because the letter is an exhibit to the Petition, the Court can consider the text of letter rather than the mischaracterizations of the Petition.

of Louisiana, ("District Court") against Jimmy Swaggart, JSM and thirteen separate defendants alleging defamation *per se,* libel *per se,* invasion of privacy and intentional infliction of emotional distress.[5] App. 58. On April 28 and May 7, 1987, three of the defendants, the General Council of the Assemblies of God, Michael Indest and Lakeview Christian Center filed exceptions of lack of subject matter jurisdiction in which they raised for the first time the fact that the petition alleged only ecclesiastical issues which could not be settled by a civil court. App. 92-99. On June 8, 1987, the exceptions of no cause or right of action and lack of subject matter jurisdiction were sustained. App. 22. As a result, Gorman's claims as to defendants Michael Indest, Lakeview Christian Center and the General Council of the Assemblies of God were dismissed. *Id.*

On May 22, 1987, while the exceptions were under submission, the plaintiffs filed a First Supplemental and Amending Petition in which they attempted to overcome certain pleading deficiencies in the Original Petition. App. 41. In response thereto, all remaining defendants, except

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[5] The petition was later amended to add Frances Swaggart, another AG Minister, and the defendants' insurers. Because that amendment was filed after the ruling by the Fourth Circuit Court of Appeals, the Second Supplemental and Amended Petition is not a part of this writ application. The petitioners herein believe that the Second Supplemental and Amended Petition suffers from the same jurisdictional deficits as the previous Petitions. Frances Swaggart is also a member of the Board of Directors of JSM. Even if the allegations against her were true, which is denied, the claims against her suffer from the same jurisdictional defects as those against Jimmy Swaggart and JSM.

G. Raymond Carlson,[6] filed exceptions of lack of subject matter jurisdiction and other exceptions. The exceptions of lack of subject matter jurisdiction were sustained on August 31, 1987 and all other exceptions were dismissed as moot. App. 27.

On August 11, 1987, Gorman and MGM appealed from the final judgment of the Court rendered and signed on June 8, 1987. App. 100. On September 15, 1987, Gorman appealed from the judgment rendered and signed on August 31, 1987. App. 103.

On April 22, 1988, the Fourth Circuit Court of Appeals (the "lower court") entered judgment reversing the District Court's dismissal of this action. App. 3. The lower court held that civil courts in Louisiana had subject matter jurisdiction over this suit. In order to reach this conclusion, the lower court impermissibly rejected the disciplinary code of the AG and a fundamental doctrinal belief of that church. The lower court also ignored important privacy rights of non-parties that could be jeopardized by an unnecessary trial in a court of improper jurisdiction. Jimmy Swaggart and others sought a rehearing and a rehearing *en banc* based in part, on the grounds that the opinion of the lower court was contrary to the United States and Louisiana Constitutions and federal court precedent, as well as precedent of the Louisiana Fourth Circuit Court of Appeals. App. 106. The application for rehearing was denied on May 11, 1988. App. 21.

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[6] On May 7, 1987, G. Raymond Carlson filed an exception of lack of personal jurisdiction which has never been set for hearing.

On June 10, 1988, petitioners sought a writ of certiorari to the Louisiana Supreme Court to review the holding of the appellate court. The writ was denied on September 23, 1988. App. 1.

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II. REASONS FOR GRANTING THE WRIT

A. Preliminary Statement

A writ of certiorari should issue to review the decision of the lower court for three reasons:

First, the lower court's ruling is in direct conflict with the First Amendment of the United States Constitution and the precedent set by this Court interpreting the establishment clause;

Second, the conclusion of the lower court that it has jurisdiction over a defamation claim arising in an ecclesiastical context is in direct conflict with a decision of a federal appellate court; and

Third, to permit a trial of this matter to continue in a court of improper jurisdiction would needlessly jeopardize the privacy interests of non-parties.

Because an unnecessary trial in this matter would cause a serious incursion into petitioners' First Amendment rights and the privacy rights of non-parties, this Court should issue a writ of certiorari to prevent this result.

B. The Decision Of The Lower Court Conflicts With The First Amendment Of The United States Constitution And The Cases Of This Court Interpreting The Establishment Clause

The lower court's decision directly contravenes the First Amendment as defined by this Court. In *Serbian Eastern Orthodox Diocese v. Milivojevich*, 426 U.S. 696, 96 S.Ct. 2372, 49 L.Ed.2d 151 (1976), and its predecessors, this Court expressly held that civil courts may not interfere in ecclesiastical matters. In reaching its conclusion that the district court had jurisdiction over this claim, the lower court rejected both the disciplinary process outlined in the AG Constitution and Bylaws and a fundamental doctrine of the AG which is based on scripture. Because the lower court's ruling not only interferes, but completely rejects the disciplinary guidelines and a "fundamental truth" of the AG, this Court should review that ruling.

The lower court's holding "that the civil courts of Louisiana have subject matter jurisdiction over this suit" was based on two instances of impermissible interference with AG doctrine. First, the lower court held that the defendants' alleged dissemination of information regarding Gorman's departure from the church *after* his attempted resignation and dismissal takes this claim outside of the First Amendment's protection. In so doing, the lower court rejected the AG disciplinary guidelines which provide that an AG minister *cannot* resign unless he is in good standing. Contrary to the conclusions of the lower court, the AG Constitution and Bylaws establish that Gorman's purported resignation was not effective prior to the completion of the AG disciplinary process.

Second, the lower court challenged the dissemination of that information to the "universal church" which is defined by the AG to include *all* Christians. The AG Constitution and Bylaws authorize the defendants to disclose to the church the cause of Gorman's dismissal. Because the AG Constitution and Bylaws establish that the church includes the universal church of all Christians, this disclosure could include dissemination of information regarding Gorman's dismissal to persons outside of the AG congregation. The lower court said that this concept of "universal church" had to be rejected because it " . . . would lead to claims that any religious decision by the Assemblies of God could be extended to any Christian." App. 19. This misinterpretation of the AG doctrine cannot support the appellate court's substitution of its beliefs for the doctrinal beliefs of the AG.

The lower court's rejection of the AG disciplinary guidelines and the concept of a "universal church" directly conflicts with the First Amendment and the precedents of this Court which establish conclusively that civil courts cannot constitutionally interpret church doctrine. *Presbyterian Church v. Mary E. B. Hull Memorial Presbyterian Church,* 393 U.S. 440, 89 S.Ct. 601, 21 L.Ed.2d 658 (1969). The Court has also established that civil courts cannot interfere when matters of "discipline or of faith, or ecclesiastical rule, custom or law have been decided by the highest of these church judicatories to which the matter has been carried." *Watson v. Jones,* 80 U.S. (13 Wall.) 679, 676, 20 L.Ed. 666 (1872). Because the decision to dismiss Gorman from his ministry and to publish the reasons for his dismissal to the Church, is a matter of discipline and faith which was decided by the AG judicatories in

accordance with the AG Constitution and Bylaws and the teachings of scripture, civil courts lack jurisdiction to interfere with this decision.

1. The Actions Purportedly Taken by the Petitioners were taken in Accordance with the AG Constitution and Bylaws and the Teachings of Scripture.

The disclosures of Gorman's indiscretions were consistent with the doctrine and discipline of the AG Church. Prior to his termination from the ministry in 1986, Gorman had been a minister of the AG for almost thirty years. Each year, Gorman renewed his credentials as an ordained minister of the AG by signing a Credential Renewal Form For Ordained Ministers.[7] On that credential renewal form, Gorman was asked each year: "Are you willing to abide by the Constitution and Bylaws of the General Council and the District Council?"[8] Each year he answered, "yes."

The bylaws of both the General Council and the District Council of the AG establish procedures for discipline and termination in the event that a minister does not comply with the teachings of scripture.[9] Each of these bylaws lists "[a]ny conduct unbecoming to a minister or indiscretions involving morals" as a "cause" for disciplinary action.[10]

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7 App. 110-125.

8 The Constitution and Bylaws of the General Council of the AG and the Louisiana District Council were entered into evidence at the hearing of this exception.

9 App. 126-150; AG Bylaws, Art. IX; District Bylaws, Art. XI.

10 App. 126, 139; AG Bylaws, Art. IX.A § 2a; District Bylaws, Art. XI § 2A.

According to the bylaws of the AG, a minister may resign from the ministry only if no charges have been filed against him.[11] In the event that a minister announces his desire to resign, prior to any decision being made on the request, an investigation is made into the standing of the minister.[12] Only if the minister is in good standing shall his request to resign be granted without further intervention.[13]

If, on the other hand, a cause for disciplinary action has been raised and investigated and a resolution of the matter cannot be reached privately, a hearing is arranged by the district credentials committee.[14] If the minister refuses to participate in the hearing, or if his guilt is established to the satisfaction of the church officials, then the only alternatives available to the minister are "expulsion from the Fellowship by dismissal or restoration to good standing in the Fellowship through a program of rehabilitation."[15] Gorman's purported "resignation" was attempted only after Gorman was confronted with charges of moral indiscretion and conduct unbecoming a minister. Because resignation is not an alternative for a minister who is not in good standing, Gorman's argument that the defendants' tortious conduct occurred after his "resigna-

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11 App. 132-151; AG Bylaws, Art. IX.A § 7a(2); District Bylaws, Art. VI, § 9.A.1.

12 App. 151; District Bylaws, Art. VI § 9.B.1.

13 App. 152; District Bylaws, Art. VI § 9.B.2.

14 App. 130, 143; AG Bylaws Art. IX § 6; District Bylaws, Art. XI, § 6.

15 App. 134, 146; AG Bylaws, Art. IX § 9; District Bylaws, Art. XI § 9.A.

tion" misstates the facts. Gorman could not resign, and any attempted resignation on July 16, 1986 could not be recognized by the AG.[16]

Even if the allegedly defamatory statements were made after Gorman's dismissal, the teachings of Scripture permit those statements to be made in connection with Gorman's discipline. As one commentator stated:

> [B]oth the reasons and the procedure for the disciplining of church members are found in Scripture. The reason for discipline is that Scripture admonishes the church not to allow evil to exist within it, i.e., for the church to be pure from the unrighteous (1 Cor. 5:9, 11; Eph. 5:1-3). Furthermore, the leaders of the church are to warn the sinful to urge them to change their ways (2 Thes. 3:14-15) because the leaders have the responsibility of the care of souls and, thus, are to be obeyed (Heb. 13:17a). The procedure for discipline is found primarily in Matt. 18:15-17.[17] Leaders

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16 As District Judge Ganucheau remarked at the hearing on this exception, Gorman's attempt to resign after a disciplinary investigation had begun was akin to a military officer's attempt to resign from the military after court martialing procedures were instituted. The Court should not expect the church to abandon its disciplinary code once triggered by the moral indiscretions of a minister, any more than it would expect the army to abandon its code of military justice once triggered by the transgressions of an officer. Moreover, in order to hold that the AG should abandon its disciplinary code and procedures, this Court would have to interfere impermissibly with the internal government of the church.

17 The text of Matthew 18:15-17 is as follows:

> 15. Moreover if thy brother shall trespass against thee, go and tell him his fault between thee and him alone: if he shall hear thee, thou hast gained thy brother.

(Continued on following page)

> are to admonish the erring one and, if there is no response, *there is to be a public disclosure to the church,* for the purpose of aiding the unrighteous one. If there is still no response, *disfellowship should follow.* Consequently, discipline is clearly based on religious belief and the Free Exercise Clause of the First Amendment gives church leaders the perfect right to impose it.

Flowers, *Can Churches Discipline Members and Win in Court?*, 27 Journal of Church and State, 483, 488 (1985) (emphasis added).

The necessity of sharing the results of ecclesiastical discipline with the public is reiterated by the Apostle Paul in I Timothy 5:19-21: "Do not entertain an accusation against an elder unless it is brought by two or three witnesses. Those who sin are to be rebuked *publicly,* so that the others may take warning. I charge you, in the sight of God and Christ Jesus and the elect angels, to keep these instructions . . ." (emphasis added).

These passages demonstrate that the public discipline of church elders is not only condoned, but encouraged by the AG Constitution and Bylaws and the scripture on which they are based. Civil courts have no jurisdiction to reject these teachings.

(Continued from previous page)

> 16. But if he will not hear thee, then take with thee one or two more, that in the mouth of two or three witnesses every word may be established.
>
> 17. And if he shall neglect to hear them, tell it unto the church: but if he neglect to hear the church, let him be unto thee as an heathen man and a publican.
>
> Matthew 18:15-17 (King James)

2. The Lower Court's Rejection of the Universal Church Doctrine of the AG Contravenes the First Amendment of the United States Constitution as Defined By this Court.

Gorman's complaint that the Petitioners defamed him by publishing the purportedly defamatory statements beyond the Assemblies of God Church does not provide a jurisdictional basis for this claim. The publication of the statements to the church is authorized specifically by scripture. Under the doctrine subscribed to by the AG, the "Church" encompasses the *entire Christian church,* not just persons who attend AG religious services. AG Constitution, Art. V, § 10 states: "The Church is the body of Christ, the habitation of God through the Spirit, with divine appointments for the fulfillment of her great commission. *Each believer, born of the Spirit, is an integral part of the general assembly and church of the firstborn,* which are written in heaven. (Ephesians 1:22-23; 2:22; Hebrews 12:23)." App. 153. In rejecting this definition of the church, the appellate court impermissibly substituted its views for the church doctrine of the AG. This rejection of church doctrine directly contravenes the establishment clause and the free exercise clause of the First Amendment.

The Supreme Court cases interpreting the First Amendment expressly forbid the appellate court's rejection of AG doctrine. A long line of authorities from this Court establishes that civil courts cannot intervene in matters of ecclesiastical polity. Beginning in 1871 with *Watson v. Jones,* 80 U.S. 666, 13 Wall. 679 (1872), the Court held that civil courts have no jurisdiction over *"theological controversy, church discipline, ecclesiastical*

government, or the conformity of the members of the church to the standard of morals required of them—." (emphasis added) *Id.* at 678. This holding, and the cases that followed,[18] operate today to divest civil courts of jurisdiction over such claims.

The *Watson* Court gave special consideration to the "hierarchial" form of organization in which the religious organization is a subordinate member of a church having superior ecclesiastical tribunals with ascending powers of control over the membership of the church. The *Watson* Court held:

> . . . that, *whenever the questions of discipline or of faith, or ecclesiastical rule, custom or law have been decided by the highest of these church judicatories to which the matter has been carried, the legal tribunals must accept such decisions as final, and as binding on them, in their application to the case before them.*

80 U.S. at 676 (emphasis added). The doctrine and decisions of the AG are equally binding on the court in the case at hand.

The AG is a hierarchial church. *Louisiana District Council of Assembly of God v. Victory Temple Assembly of God,* 427 So.2d 662 (5th Cir. 1983). The termination of Gorman from his ministerial status within the church was determined by the highest governing authority of the church empowered to make that determination, the Credentials Committee of the General Council. *See* letter

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[18] The rule of *Watson v. Jones* was made a constitutional rule of law applicable to the states in *Kedroff v. St. Nicholas Cathedral of Russian Orthodox Church in North America,* 344 U.S. 94, 116, 73 S.Ct. 143, 154, 97 L.Ed. 120, 136 (1952).

from Joseph R. Flower to Marvin Gorman dated August 14, 1986, App. 83. Under the law established in *Watson* and followed in subsequent cases, civil courts must respect the decision-making authority of the AG in this case.

Admittedly, this Court has permitted the exercise of jurisdiction where intervention would not "establish churches" in contravention of the First Amendment. *Presbyterian Church v. Mary E. B. Hull Memorial Presbyterian Church,* 393 U.S. 440, 449, 89 S.Ct. 601, 606, 21 L.Ed.2d 658, 665 (1969) (Church property disputes may be decided by civil courts applying neutral principles of law). In the past, Louisiana courts have properly interpreted this rule. *Bourgeois v. Landrum,* 396 So.2d 1275, 1276 (La. 1981) (Where "judicial enforcement of [a] right does not entangle civil courts in questions of religious doctrine, polity or practice, the First Amendment does not bar a suit to implement the statutory right.") However, these exceptions cannot be extended to grant civil courts the authority to adjudicate controversies that involve the interpretation or rejection of church doctrine. The Supreme Court illustrated the acceptable limits of civil jurisdiction over church property disputes in the *Hull* case where the Court stated:

> Civil courts do not inhibit free exercise of religion merely by opening their doors to disputes involving church property. And there are neutral principles of law, developed for use in all property disputes, which can be applied without "establishing" churches to which property is awarded. *But First Amendment values are plainly jeopardized when church property litigation is made to turn on the resolution by civil courts of controversies over religious doctrine and practice.*

Hull, 393 U.S. at 449, 89 S.Ct. at 606, 21 L.Ed.2d at 665 (emphasis added).

Similarly, First Amendment values are plainly jeopardized when disputes over church discipline are made to turn on the acceptance or rejection of religious doctrine and practice. The appellate court in this case explicitly rejected church doctrine in order to hold that Gorman's claim falls within the jurisdiction of civil courts. Because "civil courts [have] *no* role in determining ecclesiastical questions . . .," *Hull,* 393 U.S. at 447, 89 S.Ct. at 605, 21 L.Ed.2d at 664, the appellate court's rejection of the doctrine of the AG clearly offends the First Amendment.

In *Serbian Eastern Orthodox Diocese v. Milivojevich,* 426 U.S. at 710, 96 S.Ct. at 2381, 49 L.Ed.2d at 151, the Supreme Court offered its most recent affirmation of the constitutional principle that civil courts must not resolve disputes over church governance and administration, where to do so would require the courts to resolve underlying controversies over religious doctrine. There, the Court held that even some degree of "arbitrariness" in church decision-making procedures could not afford a basis for civil court review of decisions reached by religious tribunals. The Court stated that "recognition of such an exception would undermine the general rule that religious controversies are not the proper subject of civil court inquiry, and that a civil court must accept the ecclesiastical decisions of church tribunals as it finds them." 426 U.S. at 713, 96 S.Ct. at 2382, 49 L.Ed.2d at 165.

In its reasons for judgment, the lower court seemed to accept these principles in theory, only to reject them in practice. In an early portion of its opinion, the

lower court correctly noted that the authority of the civil courts to interfere with or interpret religious doctrine and practice is substantially limited. The appellate court stated that the United States and Louisiana Constitution

> both guarantee religious freedom and have been interpreted to forbid courts from interfering in the ecclesiastical matters of religious groups . . . This prohibition extends to matters of religious discipline, faith, or custom, as well as to the appointment and removal of ministers.

App. 17 (citations omitted). The appellate court appears to concede that civil courts may only interfere " . . . where religious doctrine is not involved." *Id.* It also conceded that it is constitutionally "powerless to interpret the religious doctrine which defendants claim compelled them to publicize their accusations to other members of their church . . ." App. 18. Despite these acknowledgments, the court not only interpreted, but also rejected the doctrine of the "universal church."

In order to justify this rejection of church doctrine, the appellate court recharacterized the concept of the universal church as an "argument" set forth by the defendants, as opposed to a doctrinal belief based upon scripture. App. 19. The appellate court stated:

> To the extent that the Assemblies of God interprets scripture and its own internal rules to require disclosure of Swaggart's accusations against Gorman to its members as part of the disciplinary process, civil courts may be precluded from interfering, even if the accusations appear to be false or defamatory. However, by taking their accusations outside their church, the defendants have also taken themselves outside the scope of the First Amendment's protection and, to

> that extent, have exposed themselves to the jurisdiction of the civil courts.
>
> In an attempt to avoid this consequence the defendants contend that their church includes all Christians. *This argument must be rejected.* To begin with, it would allow the Assemblies of God to treat Christians who do not subscribe to their particular brand of Christianity as if they were members of the Assemblies of God, possibly violating the First Amendment rights of these non-Assemblies of God Christians. Moreover, as this case so vividly illustrates, there is a very real danger that this "universal church" argument would lead to claims that any religious decision by the Assemblies of God could be extended to any Christian. . . .

App. 19 (emphasis added).

The AG's belief that the "church," as defined by scripture, includes all Christians, is far more than an "argument" concocted for this litigation; it is a fundamental doctrinal belief. It is based not only on the AG constitution, but also on several passages from scripture which support the proposition that there is *one* Christian church, of which Jesus Christ is the head.[19] The appellate court's

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[19] In addition to those scriptural passages cited in the Constitution, *supra* p. 16, see also:

> 20. Neither pray I for these alone, but for them also which shall believe on me through their word;
>
> 21. That they all may be one; as thou, Father, art in me, and I in thee, that they also may be one in us: that the world may believe that thou hast sent me.
>
> 22. And the glory which thou gavest me I have given them; that they may be one, even as we are one;

(Continued on following page)

protestations regarding the potentially far reaching consequences of this belief cannot camouflage the fact that it is indeed, a *religious belief* which civil courts cannot constitutionally reject.

The protestations of the appellate court regarding the potential consequences of this belief also demonstrate a misinterpretation of the belief itself. In rejecting the concept of a universal church, the appellate court apparently feared that accepting that concept "would lead to claims that any religious decision by the Assemblies of God could be extended to any Christian." App. 19. The doctrine does not purport, however, to enforce the AG's religious decisions on all Christians. Instead, that doctrine contemplates that those who have submitted to the doctrine of the AG, must subscripe to the tenets of that religion. A similar requirement was recognized by the United States Supreme Court in *Watson v. Jones,* 80 U.S. 666, 13 Wall. 679 (1872), where the Court stated:

(Continued from previous page)

23. I in them, and thou in me, that they may be made perfect in one; and that the world may know that thou hast sent me, and hast loved them, as thou hast loved me.

John 17:20-23 (King James)

28. Take heed therefore unto yourselves, and to all the flock, over which the Holy Ghost hath made you overseers, to feed the church of God, which he hath purchased with his own blood.

Acts 20:28 (King James)

18. And he is the head of the body, the church: who is the beginning, the firstborn from the dead; that in all things he might have the preeminence.

Colossians 1:18 (King James)

> All who unite themselves to such a body do so with an implied consent to this government, and are bound to submit to it. But it would be a vain consent and would lead to the total subversion of such religious bodies, if any one aggrieved by one of their decisions could appeal to the secular courts and have them reversed. It is of the essence of these religious unions, and of their right to establish tribunals for the decision of questions arising among themselves, that those decisions should be binding in all cases of ecclesiastical cognizance, subject only to such appeals as the organism itself provides for.

Id. at 80 U.S. 676-77 (13 Wall.) 728-29. *See also Serbian Eastern Orthodox Diocese v. Milivojevich,* 426 U.S. 696, 711, 96 S.Ct. 2372, 2381, 49 L.Ed.2d 151, 164 (1976); *Presbyterian Church v. Mary E. B. Hull Memorial Presbyterian Church,* 393 U.S. at 446, 89 S.Ct. at 604, 21 L.Ed.2d at 663-64.

Thus, under *Watson,* when Gorman submitted himself to the government of the AG, he bound himself to submit to the AG in matters of church discipline, which in this case included publication of his transgressions to the universal church comprised of all Christians, *whether or not* those Christians themselves subscribe to the tenets of the AG. These beliefs are fundamental to the AG doctrine, are based on scripture, and cannot be rejected by civil courts.

As a minister of the AG, Gorman annually renewed his credentials and admitted that he was willing to abide by the Constitution and Bylaws of the General Council and the District Council. When Gorman was aggrieved by the decisions of those bodies, he appealed to the secular courts to seek monetary damages in hopes of vindicating himself. This is precisely what the *Watson* Court

has said that he cannot do.[20] The secular courts are without jurisdiction to hear his claim.

C. The Lower Court's Conclusion That It Has Jurisdiction Over A Defamation Claim Arising In An Ecclesiastical Context Is In Direct Conflict With A Decision Of A Federal Appellate Court

In addition to rejecting the AG's disciplinary code and its concept of a universal church, the appellate court also seems to base its jurisdictional finding on the fact that Gorman prays for damages for defamation rather than reinstatement in the AG. *See* App. 18. In so holding, the lower court contravened a federal appellate court on an important question of federal law. In *Hutchison v. Thomas,* 789 F.2d 392 (6th Cir.), *cert. denied,* 479 U.S. 885, 107 S.Ct. 277, 93 L.Ed.2d 253 (1986), the Sixth Circuit held that civil courts have no jurisdiction over defamation claims brought by terminated ministers against their former churches and church members. Because the Louisiana Supreme Court ignored this federal precedent, this Court should grant certiorari to review this conflict.

In the *Hutchison* case, the Sixth Circuit held that the district court had no jurisdiction over a former minister's defamation claim against his church. In that case, Hutchison, "an ordained Methodist minister, challenge[d] his enforced retirement under Church disciplinary rules." *Id.* at 392. Hutchison sued various members of the church

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[20] The fact that Gorman seeks money damages instead of a judgment reversing the rulings of the AG is of no moment. Either attempt to redress the alleged harm caused by the decision of a church tribunal impermissibly oversteps the boundaries outlined in *Watson v. Jones* and the cases following that decision.

hierarchy and church governing bodies alleging that they had improperly applied the church disciplinary rules and "were guilty of 'fraudulent or collusive or arbitrary' action, as well as *defamation, intentional infliction of emotional distress,* and breach of contract." *Id.* at 393 (emphasis added). In spite of these allegations the Court held that it lacked subject matter jurisdiction. *Id.* at 396.

In reaching its decision, the court in *Hutchison* examined carefully the window that had been left open by the Supreme Court in *Gonzalez v. Roman Catholic Archbishop,* 280 U.S. 1, 50 S.Ct. 5, 74 L.Ed. 131 (1929) for "marginal civil court review" of religious cases involving "fraud, collusion or arbitrariness," 789 F.2d at 394-95. The court noted that forty-seven years after *Gonzalez,* the Supreme Court in *Serbian* had referred to this language as "dictum only" and had specifically eliminated "arbitrariness" as an exception to the rule against judicial review. *Id.* Because no fraud or collusion was involved in *Serbian,* the *Serbian* Court did not consider, and also did not endorse, the possibility of review in cases in which fraud or collusion were pled.

Taking its cue from the *Serbian* Court, the court in *Hutchison* held that if "review is allowed for fraud or collusion, it is still only allowed for fraud or collusion of the most serious nature undermining the very authority of the decision-making body." *Id.* at 395. In spite of the fact that fraud and collusion were specifically pled, the *Hutchison* court refused to exercise jurisdiction saying that there was "no claim or showing of such fraud or collusion here." *Id.*

In this case, Gorman conclusorily alleges a conspiracy but alleges no facts in support of the conspiracy.[21] Indeed, Gorman's allegations do not even question the authority of the decision-making body. The claim thus does not allege "collusion of the most serious nature undermining the very authority of the decision-making body." *Id.* Therefore, under the controlling federal precedent, even the window for "marginal civil court review" of Gorman's claim has been closed.

The result here should be no different from the result in the *Hutchison* case. In *Hutchison,* the court properly refused to exercise jurisdiction over a civil claim for defamation arising out of ecclesiastical disputes. The plaintiffs have provided no justification for the court to assume jurisdiction to interpret canonical authority and action or the scriptures on which it is based. The lower court failed to follow these federal precedents, and in so doing, trespassed on defendants' First Amendment rights. A writ of certiorari should be granted to resolve this conflict.

D. Trial Of This Matter In A Court Of Improper Jurisdiction Will Needlessly Jeopardize The Privacy Interests Of Non-Parties.

The above arguments demonstrate that a trial in a court of improper jurisdiction will result in a serious

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[21] The individual defendants whom Gorman accuses of conspiracy together reside in six different cities and two different states. Additionally, the alleged conspiracy among all defendants was added only as an afterthought in Gorman's Amended Petition in order to survive an exception of misjoinder of parties that had been filed by the petitioners.

incursion into petitioners' First Amendment rights. Perhaps more importantly, however, further prosecution of these claims poses a threat of substantial and perhaps irreversible harm to non-parties. Gorman's claim involves allegedly slanderous statements and publications about adulterous and/or illicit sexual conduct involving Gorman and persons who are not parties to these proceedings. The trial of this matter will of necessity, involve information pertaining to the conduct between Gorman and those persons, including the women with whom Gorman engaged in illicit sexual conduct. The identities of these women have not yet been published. Although a protective order has been issued by the district court to prevent disclosure of information gained through the pre-trial discovery proceedings, inadvertent disclosure could still occur. App. 23-26. Furthermore, even under the protective order, the trial itself is not closed to the public. The public disclosure of the identities of these witnesses and their stories presents a substantial opportunity for abuse, embarrassment and oppression that should be avoided unless the plaintiffs' right to proceed on the merits is unequivocally established. This Court should grant a writ of certiorari to assure that the proceedings do not continue unnecessarily.

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III. CONCLUSION

The lower court impermissibly rejected the Constitution, Bylaws and doctrine of the AG and substituted its own interpretation of the "universal church" concept espoused by the AG. In so doing, the court contravened the First Amendment and the established precedent in this Court that forbids civil interpretation of church doctrine. The lower court has ignored federal precedent which holds that civil courts have no jurisdiction over defamation claims arising in this context. Finally, the lower court ignored important privacy interests of non-parties that could be needlessly jeopardized by a trial in a court of improper jurisdiction. Because the lower court's holding contravenes the United States Constitution, the precedent of this Court and the precedent of a federal appellate court, this Court should grant a writ of certiorari to review that decision.

Respectfully submitted,

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THE SUPREME COURT OF THE
STATE OF LOUISIANA

MARVIN GORMAN AND MARVIN GORMAN MINISTRIES, INC.

VS. NO. 88-C-1483

JIMMY SWAGGART, JIMMY SWAGGART MINISTRIES, INC., WILLIAM D. TREEBY, THE FIRST ASSEMBLY OF GOD CHURCH OF NEW ORLEANS, LOUISIANA INC., LOUISIANA DISTRICT COUNCIL OF THE ASSEMBLIES OF GOD, INC., THE GENERAL COUNSEL OF THE ASSEMBLIES OF GOD, LAKEVIEW CHRISTIAN CENTER, CANAL ST. ASSEMBLY OF GOD, INC., MICHAEL INDEST, TOM MILLER, CECIL JANWAY, WALDO RISNER, ALLAN McDONNEL AND DON BRANKEL

IN RE: Swaggart, Jimmy; Jimmy Swaggart Ministries Inc.; Treeby, William D.; Applying for Writ of Certiorari and/or Review; to the Court of Appeal, Fourth Circuit, Number CA-8757; Parish of Orleans Civil District Court Div. "K" Number 87-5289

September 23, 1988
Denied.

LFC
JAD
WFM
JCW

DENNIS, J., would grant the writ.

LEMMON, J., votes to grant on the issue of the corporation's cause of action for defamation.

Supreme Court of Louisiana
September 23, 1988

/s/ Franz J. Labranche, Jr.

Clerk of Court
For the Court

MARVIN GORMAN AND MARVIN GORMAN MINISTRIES, INC.	NO. CA-8757
	COURT OF APPEAL
VERSUS	
	FOURTH CIRCUIT
JIMMY SWAGGART, JIMMY SWAGGART MINISTRIES, INC., WILLIAM D. TREEBY, THE FIRST ASSEMBLY OF GOD CHURCH OF NEW ORLEANS, LOUISIANA, INC., LOUISIANA DISTRICT COUNCIL OF THE ASSEMBLIES OF GOD, INC., THE GENERAL COUNSEL OF THE ASSEMBLIES OF GOD, LAKEVIEW CHRISTIAN CENTER, CANAL ST. ASSEMBLY OF GOD, INC., MICHAEL INDEST, TOM MILLER, CECIL JANWAY, WALDO RISNER, ALLAN McDONNEL AND DON BRANKEL	STATE OF LOUISIANA
	(Filed April 22, 1988)

APPEAL FROM CIVIL DISTRICT COURT,
PARISH OF ORLEANS, NO. 87-5289,
DIVISION "K", HONORABLE
RICHARD J. GANUCHEAU, JUDGE

• • • • •

WILLIAM H. BYRNES, III
JUDGE

• • • • •

(Court composed of Judges William H. Byrnes, III, Philip C. Ciaccio, and Steven R. Plotkin)

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REVERSED AND REMANDED

This is an appeal from district court judgments maintaining declinatory exceptions of lack of subject matter jurisdiction and peremptory exceptions of no cause and no right of action in a suit brought by Marvin Gorman and Marvin Gorman Ministries, Inc. to recover damages for defamation, libel, invasion of privacy, and intentional infliction of emotional distress from Jimmy Swaggart and thirteen other defendants. We reverse.

The suit arose out of the actions and events leading up to and following the dismissal and/or resignation of Marvin Gorman from his position as a minister of the Assemblies of God, a fundamentalist Christian religious body. Gorman was pastor of the First Assembly of God Church in New Orleans and a member of this hierarchical denomination's national governing body. He was also the president and founder of Marvin Gorman Ministries, Inc., (MGM), a non-profit religious corporation which made extensive use of television as a means of raising money and carrying its message to the public.

The petition alleges that Gorman's separation from the Assemblies of God came about as the result of a July

15, 1986 confrontation between Gorman and defendant Jimmy Swaggart, another Assemblies of God minister. Other defendants present at this meeting were Michael Indest, pastor of Lakeview Christian Center, a New Orleans area Assemblies of God church, and a member of his congregation, William Treeby, an attorney who was a member of the board of directors of Jimmy Swaggart Ministries, Inc., and had represented Swaggart in the past. During the course of the July 15 meeting, Swaggart allegedly accused Gorman of committing immoral acts with several women over a period of years. Gorman admitted one instance of immoral conduct which had occurred several years earlier, but denied the remainder of Swaggart's acusations and refused to comply with Swaggart's demand that he make a full confession and seek rehabilitation within the Assemblies of God.

The next day, July 16, 1986, Gorman decided to resign both as a minister and as a member of the Assemblies of God. His resignation was apparently accepted by the board of directors of his church and his decision was announced to his congregation that same evening. However, Swaggart and several of the other defendants did not consider Gorman's resignation valid under the constitution and by-laws of the Assemblies of God and prepared a statement outlining in full their accusations against Gorman. They caused this statement to be read to Gorman's congregation on July 20, 1986, four days after his purported resignation.

In the meantime, the Louisiana District Council of the Assemblies of God instituted disciplinary action against Gorman, notwithstanding his resignation from their

church. Gorman did not participate in this proceeding which culminated in an August 4, 1986 decision to recommend his dismissal as an Assemblies of God minister. The District Council's recommendation was accepted by the General Council on August 14, 1986, and Gorman was formally dismissed.

Apparently Gorman's resignation and the decision of the General Council to dismiss him did not close the matter as far as Swaggart and his group were concerned. On August 20, 1986, Swaggart wrote to Cecil Janway, Superintendent for the Louisiana District Council of the Assemblies of God stating that he (Swaggart) had heard rumors that Janway believed (or was considering believing) Gorman's denial of Swaggart's accusations. Swaggart's letter went on to state that Gorman's version of his conduct was not true and that Swaggart wanted Gorman's case handled in the same way as any other minister's. Swaggart also said that he would take whatever steps were necessary to prevent a "cover-up". Since the Louisiana District Council had already reviewed the case, recommended dismissal, and had its recommendation accepted by the General Council, the purpose behind this letter is not clear. Discipline had already been pronounced and enforced on Gorman when Swaggart wrote the letter. Gorman had voluntarily left both the Assemblies of God church and its ministry more than a month earlier. Moreover, Swaggart's accusations had already been made known to both the Louisiana District Council and General Council when those bodies were considering whether to dismiss Gorman. Be that as it may, on September 2, 1986, Janway read yet another statement to the congregation

of Gorman's former church which claimed among other things that:

> Established evidence and fact prove that Marvin E. Gorman engaged in multiple immoral incidents over a period of years which included adultery, illicit affairs, and unscriptural lascivious conduct with women who came to him for counseling. This occurred for many years, extending up to and inluding this year. I have a statement from a woman telling of his conduct with her this year which was unbecoming to a minister.

The statement also criticized Gorman for presuming to tell his version of the incidents and asserted that:

> The manner in which members and supporters of First Assembly have been contacted directely and indirectly by Marvin E. Gorman demonstrates a blatant disregard for ministerial ethics. Such conflict and the misleading message being given shows an absence of christian love. There has been a disregard for unity and harmony in the body of Christ and the local Assembly. The responsibility for confusion, discord, and strife coming from some media messages and the personal contacts lies at the feet of Marvin E. Gorman and individuals coming to his defense, presumably out of ignorance of the true facts. We find this tragically unscriptural, misleading and detrimental to the spiritual well being of all believers.

Finally the September 2, 1986 letter stated that:

> A local television broadcast, last week, by Marvin E. Gorman, gave some the impression that myself and other district officials, as well as some national officials, of the Assemblies of God, had somehow endorsed or approved of his continued ministry. Any such implication is erroneous, unfounded, and without permission. There are national ministries recognized and endorsed by the Louisiana District Coun-

> cil and the General Council of the Assemblies of God. Marvin Gorman Ministries is not one of them now, and in fact has never been one of them.

The petition alleges that this letter was written by Swaggart, Treeby and others, and that its circulation and content were approved by the Louisiana District Council and General Council of the Assemblies of God. More importantly, it is alleged that distribution of this statement was not confined to members of the Assemblies of God churches, but included pastors of churches of other denominations, the general public (both in Louisiana and throughout the United States), and foreign missionaries. The petition goes on to allege other acts and statements, which Gorman and MGM claim were made maliciously and with knowledge of their falsity, by various defendants to members of the media and private citizens. Gorman and MGM further claim that Swaggart and others caused MGM to lose television time by casting doubt on the financial, professional, and moral character of Gorman and his ministry. It is also alleged that the false stories concerning Gorman's conduct were embroidered and repeated to individuals and financial institutions, causing them to withdraw from commitments to finance various aspects of MGM's operations. Finally, it is alleged that Swaggart and others repeated the statements outlined above, as well as others accusing Gorman of embezzeling church funds and being connected with the Mafia, to representatives of the news media in order to further publicize their content and to damage both Gorman and MGM.

The petition was met with a number of exceptions including no cause of action, no right of action, and lack of subject-matter jurisdiction. As to Gorman individually,

the exceptions of no cause and no right of action were either denied or dismissed as moot. These judgments were not appealed and need not concern us at this time. The exception of lack of subject-matter jurisdiction was maintained. This judgment forms the basis of Gorman's appeal.

As to MGM, the exceptions of no cause and no right of action were maintained and MGM's claims against all defendants dismissed. The exceptions were based in part on the argument that a corporation cannot be defamed, libeled or caused emotional distress and that, to the extent the petition sought such damages, it failed to state a cause or right of action.

We begin by observing that this argument is not appropriately raised by the exception of no right of action. This exception is intended to question the plaintiff's right to bring the suit by challenging his legal interest in its subject matter. It raises the questions of whether a remedy afforded by law can be invoked by a particular plaintiff. *Henry v. State through Department of Health & Human Resources,* 435 So.2d 565 (La. App. 3d Cir. 1983), *writ denied* 441 So.2d 750 (La. 1983). It does not raise the issue of whether the remedy exists, only who may assert it. A challenge to the existence of a particular remedy is more properly raised by the exception of no cause of action. That exception questions whether the law grants a remedy to anyone for the particular harm alleged in the petition, just as the exception of no right of action questions whether a particular plaintiff is a member of the class to whom the remedy is extended. *Mercier v. Flugence,* 408 So.2d 52 (La. App. 3d Cir. 1981); *Gustin v. Shows,* 377 So.2d 1325 (La. App. 1st Cir. 1979).

In the present case, there is no doubt that if anyone had the right to bring an action for the damages MGM claimed in the petition, it was the corporation itself. It was therefore error to maintain the exceptions of no right of action as to MGM, and the judgments which have done so are reversed.

The real issue as it relates to MGM is whether the law provides a remedy under the facts alleged in the petition—in other words, does Louisiana law provide corporations with a *cause* of action for defamation, libel,, etc. and if so, does the petition of this corporation allege sufficient facts to state such a cause? In our opinion, it does.

There were two main arguments presented in support of the exception of no cause of action. First, it was claimed that a corporation has no reputation in the personal sense and so cannot be defamed by non-business related statements. Second, it was argued that MGM could not bring suit based on allegedly defamatory statements made about Gorman but not about MGM. In our opinion, these arguments misconstrue the law and ignore the reality of this particular situation.

This case is not like that of a business corporation seeking damages for statements made about the personal morality of one of its officers or a member of its board of directors in matters unrelated to business. Gorman's personal reputation was one of MGM's primary assets. By questioning *his* moral integrity, the integrity of the corporation itself was called into question. In many ways, defamation of Gorman was defamation of his ministry. He was its principal spokesman. It was with him that the public identified. His reputation for spiritual and

moral integrity was the cornerstone on which the ministry was built. Attacks on Gorman, which included allegations that he embezzled MGM funds, could (and allegedly did) decrease contributions to MGM and lessen the confidence of lenders in the stability and integrity of the ministry. Under these circumstances, we believe it was possible for MGM to be defamed by statements about Gorman even if MGM was not mentioned by name in those statements. For a discussion of this type of defamation see generally, W. Prosser, *Handbook of the Law of Torts,* Sec. 111, p. 745 (4th ed. 1971) and *Restatement of Torts 2d,* Sec. 564, comment (e).

In our opinion, the reputation of Gorman's ministry was inextricably tied to his personal reputation. The unusual nature of this relationship distinguishes this case from *Coulon v. Gaylord Broadcasting,* 433 So.2d 429 (La. App. 4th Cir. 1983), in which this court reaffirmed the *general* rule that an action for defamation is personal to the one defamed and cannot be asserted by one only indirectly affected. We therefore reject the argument that MGM cannot bring suit based on the defamatory statements purportedly made about Gorman.

We likewise reject the argument that a non-profit corporation like MGM cannot bring an action for defamation. In Sec. 561(b) of the *Restatement of Torts 2d,* the American Law Institute endorses the position that a non-profit corporation which depends on the public for financial support can bring such an action if there is publication of defamatory matters which interfere with the corporation's activities or tend to prejudice it in the public's eye. The comments to this section expressly address

the applicability of this rule to religious and charitable organizations. We have found no Louisiana case directly on point. However, a number of cases have held without discussion that corporations which operate for profit have a cause of action for defamation. See *Economy Carpets Manufacturers & Distributors, Inc. v. Better Business Bureau of Baton Rouge,* 361 So.2d 234 (La. App. 1st Cir. 1978); *WHC, Inc. v. Tri-State Road Boring, Inc.,* 468 So.2d 764 (La. App. 1st Cir. 1985). We see no reason to treat non-profit corporations differently. The position adopted by the Restatement is both reasonable and fair and we therefore adopt it as our own. See also *Prosser,* supra at 745.

However, as to MGM's claim for intentional infliction of emotional distress and invasion of privacy, another rule controls. MGM has conceded that it cannot recover damages for intentional infliction of emotional distress, so we need not address this issue. As to the invasion of privacy question, the defendants successfully argued in the district court that MGM could not assert this cause of action because a corporation has no right of privacy except as to misappropriation of trade names and other matters not connected with the facts of this case. We agree.

The tort of invasion of privacy appears to be directed at redressing the damage which an individual suffers when legally recognized elements of his right of privacy have been violated. The basis for recovery is the *emotional* injury which such violations cause. See generally *Prosser,* supra, Sec. 117, *Restatement of Torts 2d,* Sec. (1977). Being a fictional person, a corporation has no

emotions to injure, and for this reason has traditionally been precluded from recovering damages based on invasion of privacy. We have been cited to no case allowing a corporation to recover on this basis and have found none in the course of our research. Moreover, MGM presents no serious or compelling argument in favor of changing this long standing rule, but directs its efforts primarily at the defamation claim. Were this the only basis on which Gorman and MGM sought to recover, we would affirm the granting of the exception of no cause of action, finding as a matter of law that a corporation may not recover damages for such injury. However, that was not the case. Recovery was sought on a number of grounds, including defamation. It is therefore necessary for us to consider the petition as a whole to determine if it was sufficient to withstand an exception of no cause of action.

We begin by noting that for the purpose of deciding an exception of no cause of action the factual allegations of the petition are accepted as true. Moreover, any doubt as to the sufficiency of those allegations must be resolved in favor of the plaintiff. The exception can be maintained only when the facts alleged in the petition disclose no cause of action on *any* ground raised in the petition. *Faciane v. Southern Shipbuilding Corp.*, 446 So.2d 770 (La. App. 4th Cir. 1984). The reason for this rule is that the exception of no cause of action is intended to test the legal sufficiency of the petition itself, not the evidence which may or may not be available at trial to prove what it alleges. *Hero Lands Co. v. Texaco, Inc.*, 310 So.2d 93 (La. 1975).

To state a cause of action for defamation the folowing must be alleged: defamatory words; publication; falsity;

malice (actual or implied); and injury. *Cangelosi v. Schwegmann Bros. Giant Super Markets,* 390 So.2d 196 (La. 1980); *Wiggins v. Creary,* 475 So.2d 780 (La. App. 1st Cir. 1985), *writ denied* 478 So.2d 910 (La. 1985); *O'Dell v. Deich,* 496 So.2d 1074 (La. App. 4th Cir. 1986).

Defamatory words are those which tend to expose a person to contempt, hatred or ridicule, or otherwise deprive that person of public confidence or injure him in his occupation or reputation. *Bradford v. Murry,* 467 So.2d 1297 (La. App. 4th Cir. 1985), *writ denied* 469 So.2d 988 (La. 1985); *Freeman v. Cooper,* 414 So.2d 355 (La. 1982). *Restatement of Torts* 2d, Sec. 559 (1977). Statements imputing a crime to another are defamatory, *Cangelosi v. Schwegmann, supra,* as are statements imputing adultery or extramarital sexual relations. *Moreau v. Brenan,* 466 So.2d 572 (La. App. 5th Cir. 1985); *Goldsmith v. Unity Industrial Life Insurance and Sick Ben. Ass'n,* 128 So. 182 (La. App. Orleans 1930).

The publication element of a cause of action for defamation is met by alleging that the defamatory statement was made to someone other than the person defamed, even if it is only to a single person. *Toomer v. Breaux,* 146 So.2d 723 (La. App. 3d Cir. 1962). *Restatement of Torts 2d,* Sec. 577 (1977).

In this case it was alleged that Swaggart and the other defendants made a variety of statements, both oral and written, which falsely and maliciously accused Gorman of repeated acts of adultery and immoral conduct. The petition goes on to allege that the defendants falsely and maliciously accused Gorman of embezzling funds from his church and of having connections with the Mafia.

It is also alleged (albeit in a vague and somewhat indirect manner) that the defendants impugned the credit and business practices of MGM to lenders and television stations. It is further alleged that these statements were made and publicized to a wide range of people both inside and outside the Assemblies of God.

Construing these allegations liberally in favor of MGM, we find that they are adequate to state a cause of action for defamation against all defendants. Having reached this conclusion it is unnecessary to address the adequacy of the factual allegations relating to other causes of action in the petition. As long as a cause of action is stated as to *any* of the demands made in the petition, the entire petition must stand and the exception of no cause of action must be overruled. *Lennerts Farms, Inc. v. Rogers,* 426 So.2d 1336 (La. 1982); *Haskins v. Clary,* 346 So.2d 193 (La. 1977); *Elliot v. Dupuy,* 135 So.2d 54 (La. 1961). The trial court erred by holding otherwise and the judgments maintaining the exceptions of no cause of action as to MGM are hereby reversed.

Some of the defedants argue that because they did not make the statements complained of they are not subject to liability and were properly dismissed. We disagree. The petition, as amended, alleges a conspiracy among all the defendants to defame and injure Gorman and MGM. While these allegations may be difficult to prove at trial, we are not concerned at this stage with proof—only with allegations.

Under C.C. Art. 2324(A):

> He who conspires with another person to commit an intentional or willfust act is answerable in solido with that person for the damage caused by such act.

Having alleged a conspiracy among all defendants, Gorman and MGM are entitled to an opportunity to prove that allegation at a trial on the merits. See, *Economy Carpets Manufacturers & Distributors Inc. v. Better Business Bureau of Baton Rouge,* 333 So.2d 765 (La. App. 1st Cir. 1976), *writ denied* 334 So.2d 428 (La. 1976); *Ardoyno v. Ungar,* 352 So.2d 320 (La. App. 4th Cir. 1977), *writ denied* 354 So.2d 210 (La. 1978).

We now turn to the difficult questions raised by the granting of the exception of lack of subject-matter jurisdiction. The trial court granted the exceptions based on its belief that the clause in the First Amendment of the United States Constitution which guarantees the free exercise of religion (and the jurisprudence interpreting that guarantee) precluded the exercise of civil jurisdiction over any of the matters raised in the petition. We disagree.

The First Amendment of the United States Constitution and Article 1, Sec. 4 of the Louisiana Constitution both guarantee religious freedom and have been interpreted to forbid courts from interfering in the ecclesiastical matters of religious groups. *The Serbian Eastern Orthodox Diocese for the U.S. and Canada v. Milivojevich,* 426 U.S. 696, 96 S.Ct. 2372 (1976); *Wilkerson v. Battiste,* 393 So.2d 195 (La. App. 1st Cir. 1980). This prohibition extends to matters of religious discipline, faith, or custom, as well as to the appointment and removal of ministers. *Milivojevich, supra; Joiner v. Weeks,* 383 So.2d 101 (La. App. 3d Cir. 1980). However, there are limits to this prohibition, and in those cases where religious doctrine is not involved, or may be deferred to, civil courts

retain the power to resolve disputes. *LeBlanc v. Davis,* 432 So.2d 239 (La. 1983); *Bourgeois v. Landrum,* 396 So.2d 1275 (La. 1981); *Thomas v. Craig,* 424 So.2d 1090 (La. App. 1st Cir. 1982); *Rose Hill Baptist Church v. Jones,* 425 So.2d 348 (La. App. 3d Cir. 1982); *Wilkerson v. Battiste, supra.*

In our opinion, this is such a case. In spite of defendants' arguments to the contrary, Gorman clearly is *not* disputing his dismissal as a minister. How could he when his voluntary resignation predated his formal dismissal? This fact alone distinguishes this case from many of those cited by defendants and lessens the impact of their holdings. More important, however, is the fact that Gorman's suit alleges defamatory acts which occurred *outside* the Assemblies of God *after* he had resigned as a member of that denomination and been formally dismissed as one of its ministers.

We have been presented with no plausible argument to justify these allegedly defamatory actions as part of internal church discipline. Moreover, even were we to find that the defendants' post-dismissal statements were legitimately part of internal church discipline, there is a serious question as to whether the First Amendment's protection would extend to those statements allegedly made to the press, the general public and pastors of other denominations. In our opinion, these allegations take the case beyond the scope of an internal religious matter. This court may be powerless to interpret the religious doctrine which defendants claim compelled them to publicize their accusations to other members of their church, however, this does not mean they can make those accusa-

tions *outside* their church and not face the legal consequences.

Neither the United States nor the Louisiana Constitution provides religious organizations or their members with unqualified blanket immunity from the civil consequences of potentially defamatory statements. To the extent that the Assemblies of God interprets scripture and its own internal rules to require disclosure of Swaggart's accusations against Gorman to its members as part of the disciplinary process, civil courts may be precluded from interfering, even if the accusations appear to be false or defamatory. However, by taking their accusations outside their church, the defendants have also taken themselves outside the scope of the First Amendment's protection and, to that extent, have exposed themselves to the jurisdiction of the civil courts.

In an attempt to avoid this consequence the defendants contend that their church includes all Christians. This argument must be rejected. To begin with, it would allow the Assemblies of God to treat Christians who do not subscribe to their particular brand of Christianity as if they were members of the Assemblies of God, possibly violating the First Amendment rights of these non-Assemblies of God Christians. Moreover, as this case so vividly illustrates, there is a very real danger that this "universal church" argument would lead to claims that any religious decision by the Assemblies of God could be extended to any Christian. In addition, this argument ignores the fact that defendants' accusations concerning Gorman and MGM were allegedly repeated to non-Christians, atheists and agnostics. Even the most liberal atti-

tude toward freedom of religion cannot cloak the dissemination of defendants' accusations to these groups in the mantle of the First Amendment.

Given the allegations of broad publication of defamatory statements beyond the confines of the Assemblies of God, we find that the civil courts of Louisiana have subject matter jurisdiction over this suit and the trial court's ruling to the contrary is reversed. The parameters of the relief which can be granted in the event that Gorman and MGM are successful are obviously fixed by the constitution and the law on qualified privileges. However, the task of defining these limits must be left to the district court and will depend in large part on the facts developed at trial.

For the foregoing reasons, the judgments maintaining the exceptions of no cause and no right of action as to MGM and the exception of lack of subject matter jurisdiction as to Gorman are reversed and the case remanded to the district court for further proceedings consistent with this opinion and the law. The exception of no right of action, filed the day of oral argument by defendant Michael Indest, has been rendered moot by the substitution of the bankruptcy trustee as plaintiff in place of MGM & Gorman.

REVERSED AND REMANDED

COURT OF APPEAL, FOURTH CIRCUIT
STATE OF LOUISIANA

Clerk's Office, New Orleans, May 11, 1988

Dear Sir:

Rehearing was this day refused in the case entitled GORMAN, ET AL. v. SWAGGART, ET AL.

No. CA-8757

Very truly yours,

DANIELLE A. SCHOTT
CLERK OF COURT

(ALL SEVEN APPLICATIONS)

CIVIL DISTRICT COURT FOR THE
PARISH OF ORLEANS
STATE OF LOUISIANA
DIVISION "K"

NO. 87-5289

MARVIN GORMAN, ET AL.

VERSUS

JIMMY SWAGGART, ET AL.

JUDGMENT

This matter came for hearing on Exceptions filed by several defendants and a Motion for Protective Order filed herein on behalf of defendants, Jimmy Swaggart, Jimmy Swaggart Ministries, Inc. and William D. Treeby:

After considering the pleadings, the argument of Counsel and the law:

IT IS ORDERED, ADJUDGED AND DECREED that the Exceptions of No Right or Cause of Action filed herein on behalf of defendants, Michael Indest, Lakeview Christian Center, Jimmy Swaggart, Jimmy Swaggart Ministries, Inc., William D. Treeby, Don Brankel, Cecil Janway, Louisiana District Council of the Assemblies of God, Inc., The First Assembly of God Church, Inc., Waldo Risner, Allen McDonnell, Tom Miller, Canal Street Assembly of God, Inc. to the Petition filed herein on behalf of Marvin Gorman Ministries, Inc. be, and the same are hereby maintained and therefore the Petition filed herein on behalf of Marvin Gorman Ministries, Inc. is hereby dismissed.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Exceptions of Lack of Subject Matter Jurisdiction filed herein on behalf of The General

Council of the Assemblies of God, Michael Indest and Lakeview Christian Center be, and the same are hereby maintained and therefore these proceedings are hereby dismissed as to those defendants.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all other Exceptions urged by defendants Jimmy Swaggart, Jimmy Swaggart Ministries Inc., William D. Treeby, Don Brankel, Cecil Janway, Louisiana District Council of the Assemblies of God, Inc., The First Assembly of God Church, Inc., Waldo Risner, Allen McDonnell, Tom Miller, Canal Street Assembly of God, Inc. be, and the same are hereby overruled. Defendants herein have fifteen days within which to file responsive pleadings.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that a Protective Order Issue herein and therefore;

IT IS ORDERED that:

1. All discovery requests, including deposition notices of non-party witnesses, document requests, interrogatories, and other applications for discovery and/or responses thereto and contents thereof, shall not be filed in the record except as authorized herein and shall be furnished only to attorneys of record, parties and the persons to whom the respective discovery requests are directed unless further distribution is authorized by subsequent order of this Court. The Clerk of Court, upon presentation of a signed deposition notice not filed in the record, shall issue a deposition subpoena to the party requesting same; the party requesting issuance of the deposition subpoena is hereby authorized to and shall employ a private person, not

a party to these proceedings, to serve the deposition subpoena; and after service of the deposition subpoena is made, the party shall retain the return of service in its possession and shall not file the return of service into the record except as authorized in this order;

2. Any documents produced in discovery in connection with this case shall be stamped "Confidential; Subject to Protective Order entered in Civil Action No. 87-5289, Civil District Court for the Parish of Orleans" and shall be numbered sequentially by the party producing same with a suitable prefix to denote its origin;

3. Depositions in this proceeding shall be closed with attendance limited to court reporters, parties, attorneys of record, witnesses and attorneys of the witnesses;

4. Subject to the provisions of paragraph 5, depositions and deposition exhibits shall be sealed and all copies retained by parties and their attorneys, or by witnesses and their attorneys, and shall be used solely in connection with this litigation and shall not be distributed or publicized except as authorized in this order;

5. In the event that any pleadings or documents utilizing or arising from pretrial discovery (including but not limited to depositions and deposition exhibits, exhibits and answers to interrogatories, and motions to compel discovery) (hereinafter collectively referred to as "Filed Materials") are to be filed in this proceedings by any party:

(a) Such Filed Materials will be distributed to and received by all counsel of record at least seven days prior to the date of filing, along with notification that the distributing party intends to file the Filed Materials on a specified date;

(b) Any party to the proceeding shall then be entitled to file a motion to seal the Filed Materials and/or to close any hearing that may be held on the Filed Materials. Pending the determination on the motion to seal and/or to close the hearing on the Filed Materials, the Filed Materials shall be filed under seal. The temporary filing of the Filed Materials under seal shall not alter the burden of justifying the sealing or closure as provided for by applicable law:

(c) In the event that any party files a motion to seal Filed Materials or to close a hearing on Filed Materials or any other hearing, that party shall notice such motion for hearing and serve all counsel of record and the attorney for the intervenors, who will be provided with reasonable advance notice of the hearing and shall be afforded an opportunity to appear and oppose the motion to seal the Filed Materials and/or close the hearing on the Filed Materials or any other hearing.

(d) In the event that any party files a motion to seal Filed Materials or to close a hearing on Filed Materials or any other hearing, that party shall do so in accordance with the order of this Court dated May 15, 1987.

6. Each of the parties, their attorneys, agents and representatives, shall make no use of and shall not disseminate, distribute or publicize the documents or information described in paragraphs 1-5 that are gained through discovery, other than such use as is necessary in order for the discovering party to prepare and try the case, and other than such disclosure as may occur in the public record or public proceedings in this matter in conformity with this order. Unless disclosed in the public record or

public proceedings in this matter in conformity with this order, information gained by a party through the discovery process may not be published by any of the parties or made available to any news media for publication or dissemination. This protective order has no application except to information gained by the parties through the use of the discovery process. The restrictions in this paragraph do not apply to intervenors, their attorneys, agents and representatives.

JUDGMENT READ, RENDERED AND SIGNED this 8th day of June, 1987 at New Orleans, Louisiana.

/s/ Richard J. Ganucheau
JUDGE

CIVIL DISTRICT COURT FOR THE
PARISH OF ORLEANS

STATE OF LOUISIANA

DIVISION "K"

NO. 87-5289

MARVIN GORMAN, ET AL.
VERSUS
JIMMY SWAGGART, ET AL.

J U D G M E N T

This matter came for hearing on Exceptions filed herein on behalf of several defendants:

After considering the pleadings, the argument of Counsel, and the law: IT IS ORDERED, ADJUDGED AND DECREED that the Exceptions of Lack of Subject Matter Jurisdiction filed herein on behalf of Jimmy Swaggart, Jimmy Swaggart Ministries, Inc., William D. Treeby, Don Brankel, Cecil Janway, Louisiana District Council of the Assemblies of God, Inc., The First Assembly of God Church, Inc., Waldo Risner, Allen McDonnell, Tom Miller, Canal Street Assembly of God, Inc. be, and the same are hereby maintained and therefore these proceedings are hereby dismissed as to those defendants.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all other Exceptions filed herein on behalf of Jimmy Swaggart, Jimmy Swaggart Ministries, Inc., William D. Treeby, Don Brankel, Cecil Janway, Louisiana District Council of the Assemblies of God, Inc., The First Assembly of God Church, Inc., Waldo Risner, Allen McDonnell, Tom Miller, Canal Street Assembly of God, Inc. be, and the same are hereby dismissed as moot.

JUDGMENT READ, RENDERED AND SIGNED this 31st day of August, 1987 at New Orleans, Louisiana.

/s/ Richard J. Ganucheau
J U D G E

EXH. "F" 1
Passed for Exhorter's—3/2/53

APPLICATION FOR MINISTERIAL RECOGNITION

by

DISTRICT COUNCILS OF THE ASSEMBLIES OF GOD

(To be used for all applications to District Credentials Committees. A different form of application must be filled out when applying for General Council Credentials, Springfield, Mo.)

(Filed June 9, 1987)

QUESTIONNAIRE

This blank, having been fully considered and all questions answered, should be placed in the hands of the Credentials Committee of the District prior to the meeting of the Committee before which the candidate expects to appear:

1. Full Name Marvin Edward Gorman
2. Home Address Route 1, Box 81, Hampton, Arkansas.
3. Place and date of birth Hampton, Nov. 3, 1933.
4. Nationality American
5. Age 19 Sex Mail [sic] Single? Yes Married? No
6. Divorced? No Remarried? No Number of children None
7. Have you or your companion a former companion living? If so, give full particulars None
8. When and where were you saved? September 5, 1948 at China Grove Assembly of God Church, Hampton, Ark.

9. Have you received the Baptism in the Holy Ghost (Acts 2:4)? Yes

10. When and where? September 19, 1948 China Grove

11. Have you been baptized in water according to Matt. 28:19? Yes

12. When and where? Sept. 12, 1948, Little Bay, 12 miles South of Hampton.

13. What leads you to believe God has called you into the ministry? By the divine leading by the Spirit of God. By the burden I have for the lost and by the Annointing of the Spirit.

14. For what recognition are you seeking? Exhorter's Permit? Exhorter. License? —— Ordination? ——

15. What is your special calling? Pastor? —— Evangelist? Evangelist

16. How much time do you devote to your calling? At least 50%

17. With what other religious bodies have you been identified, and in what relationship? None

18. Why do you desire to be affiliated with the Assemblies of God? I believe it is the only organization that teaches a true Christ like life.

19. Have you fully considered the Statement of Fundamental Truths adopted by the General Council of the Assemblies of God, and what is your attitude toward this Statement? I believe that they are right and that all of our ministers should observe them.

20. Have you carefully considered the Constitution and By-Laws of the General Council? Yes

21. Are you familiar with the Constitution and By-Laws of your District? Yes

22. What are your views on the following subjects:

(a) Sanctification? I believe that a man must be borned again according to the scripture to become a child of God.

(b) Tithing and its practice? I believe in tithing as the scripture teaches it.

(c) Eternal Security teaching? I believe that a person can backslide.

(d) So-called "Jesus Only" teaching? I believe that Jesus Christ is the Son of God.

23. How much schooling have you had? Finished high school.

24. How much Bible training? None

(a) What school? None

(b) What years? None

25. Have you followed any Home Study Courses for the Ministry? If so, what courses? Yes, the first year Bible study.

26. Will you be willing to undertake a Home Study or Reading Course provided by the General Council? Yes.

27. Have you ever held papers with any other District Council? If so, state particulars No.

28. Have you ever made application to any other District Council and been refused? No.

29. Are you willing to conform to the advice of your District Officiary and older brethren in the ministry pertaining to your deportment and your labors as a minister? Yes.

30. Are you willing to support the District Council in its policies and purposes and to co-operate with the brethren of the District fellowship in those matters which require united effort for the spread of the Gospel at home and abroad? Yes.

Your Signature /s/ Marvin Edward Gorman

Signatures of Two Ministers Endorsing This Application
/s/ Rev. Carlton Ethridge; Otis B. Hubbard

EXH. "F" 2
Passed Lisens June 28, '54, Smackoner
ARKANSAS DISTRICT COUNCIL

Application For Ministerial Promotion

(Filed June 9, 1987)

1. Full Name Marvin Edward Gorman.
2. Home Address Route 1, Hampton. Phone No. ———
3. Place and date of birth Hampton, 1933—Nov. 3.
4. Nationality ————.
5. Age 20 Sex Mail [sic] Single? Yes Married? No.
6. Divorced? No Remarried? No Number of children None.
7. Have you or your companion a former companion living? No.

   If so, give particulars None.
8. When and where were you saved? 1948 in September at China Grove.
9. Do you teach a supernatural conversion and the Presence of Christ revealed by a supernatural God? Yes.
10. Have you received the Baptism in the Holy Ghost (Acts 2:4)? Yes.
11. Do you believe the only initial evidence of the Baptism of the Holy Ghost as in Acts 2:4, 10:44? Yes.
12. Under what Pentacostal Movement did you receive this experience? Assembly of God.
13. When and where? Place China Grove. Oct. 19.
14. Have you been baptized in water according to Matt. 28:19? Yes.
15. When and where? 1948—Little Bay.

16. How long have you been identified with the Council? 1 year 4 mo.

17. For what recognition are you seeking? License ✓ Ordination? ——.

18. What is your special calling? Pastor? Pastor. How much experience as Pastor 8 mo. Evangelist? ——. How many revivals this year? 2.

19. How much time do you devote to your calling? Full time.

20. What reason do you offer for promotion? ——.

21. Have you fully considered the Statement of Fundamental Truths adopted by the General Council of the Assemblies of God, and what is your attitude toward this Statement? I do believe in them.

22. Have you fully considered the Constitution and By-Laws of the General Council? Yes.

23. Are you familiar with the Constitution and By-Laws of Your District? Yes.

24. What are your views on the following subjects:

    (a) Sanctification? That we should have a borned again experience with Christ.

    (b) Tithing and its practice? I do believe in paying ties.

    Do you accept the Storehouse Plan of tithing as God's plan to support the Churches and District? Yes.

    (c) Eternal Security Teaching? I do believe you can backslide 100%.

    (d) So-called "Jesus Only" teaching? I do not believe in Jesus only.

    Do you fellowship the Jesus Only doctrine? No.

    Do you teach three persons in the Godhead? Yes.

    (e) What is your attitude toward present day tendencies for worldliness and Worldly amusements,

immodest dress, sports, public bathing, divorce and remarriage, and so forth? It is of the Devil and is not pleasing to Christ.

25. How much schooling have you had? Finished high school.

26. How much Bible training? ——. What school? ——.

27. Have you followed any Home Study Courses for the Ministry? If so, what courses? First year.

28. Have you attended our District Bible Institute? No. How long? ——.

29. Will you be willing to undertake a Home Study or Reading Course provided by the District Council? Yes.

30. Have you ever made application and been refused promotion? No. Why? ——.

31. Are you willing to conform to the advise of your District Officiary and older brethren in the ministry pertaining to your deportment and your labors as a minister? Yes.

32. Do you accept tobacco users or divorced or remarried persons in the ministry or as Church or Sunday School teachers or officials? No.

33. Are you willing to support the District Council in its policies and purposes and to cooperate with the brethren of the District fellowship in those matters which require united effort for the spread of the Gospel, financially and otherwise, at home and abroad? Yes.

(Your Signature) /s/ Marvin Edward Gorman

RECOMMENDATION

We do hereby set our seal on these statements and assume all responsibility knowing the applicant to be worthy of the recommendation herein given.

Signed _____
Pastor

Signed _____
Deacon

Signed /s/ E. B. Jones
Sectional Presbyter

IMPORTANT—Please fill out this blank, secure the proper endorsements and send to the Sectional Presbyter of the Section in which you reside with a fee of 50c to help with printing, stenographic work, etc. Your application will be taken before the Committee at the annual Sectional Council held in your Section. Your Sectional Presbyter will notify you as to the date and place this Council will be held. Please notify him of any change in address.

EXH. "F" 3

ARKANSAS DISTRICT COUNCIL
Application For Ministerial Promotion
Sep. 26, 1956
(Passed for Ordination)

(Filed June 9, 1987)

1. Full Name Marvin Edward Gorman.
2. Home Address 1319 Essie, El Dorado, Ark.
   Phone No. Union 3-466.
3. Place and date of birth Hampton, Ark. Nov. 3, 1933.
4. Nationality American.
5. Age 22 Sex Male Single? —— Married? ✓
6. Divorced? ——. Remarried? ——. Number of children 1.
7. Have you or your companion a former companion living? No. If so, give particulars ——
8. When and where were you saved? September 1948, China Grove Assembly, Hampton, Ark.
9. Do you teach a supernatural conversion and the Presence of Christ revealed by a supernatural God? Yes.
10. Have you received the Baptism in the Holy Ghost (Acts 2:4)? Yes.
11. Do you believe the only initial evidence of the Baptism of the Holy Ghost as in Acts 2:4, 10:44? Yes.
12. Under what Pentecostal Movement did you receive this experience? Assemblies of God.
13. When and where? October, 1948, Union Grove.
14. Have you been baptized in water according to Matt. 28:19? Yes.

15. When and where? China Grove, Hampton, Sep. 1948.

16. How long have you been identified with the Council? March, 1953.

17. For what recognition are you seeking? License? —— Ordination? ✓

18. What is your special calling? Pastor? ——. How much experience as Pastor 20 mo. Evangelist? 14 mo. How many revivals this year? 12. From Oct. 1, '55 to Apr. 29.

19. How much time do you devote to your calling? Full time.

20. What reason do you offer for promotion? Since I have held license two years, I think it would be a help to me in the ministry to be promoted.

21. Have you fully considered the Statement of Fundamental Truths adopted by the General Council of the Assemblies of God, and what is your attitude toward this Statement? I fully adopt the Fundamental Truths of the General Council.

22. Have you fully considered the Constitution and By-Laws of the General Council? Yes.

23. Are you familiar with the Constitution and By-Laws of your District? Yes.

24. What are your views on the following subjects:

    (a) Sanctification? We must be born by the Spirit as in John 3:1-5. It is a progressive work that continues from the time you are saved until the end of the Christian life.

    (b) Tithing and its practice? I think that tithing should be practiced by all Christians.

    Do you accept the Storehouse Plan of tithing as God's plan to support the Churches and District? Yes.

    (c) Eternal Security Teaching? Don't accept.

(d) So-called "Jesus Only" teaching? Don't accept.

Do you fellowship the Jesus Only doctrine? No.

Do you teach three persons in the Godhead? Yes.

(e) What is your attitude toward present day tendencies for worldliness and Worldly amusements, immodest dress, sports, public bathing, divorce and remarriage, and so forth? That we should abstain from them.

25. How much schooling have you had? 12 yrs. High School.

26. How much Bible training? ——. What school? ——.

27. Have you followed any Home Study Courses for the Ministry? If so, what courses? First year Bible course, Pentecostal Truths, Pauline Epistles IA and IB, Pastoral Theology, and Dispensational Studies.

28. Have you attended our District Bible Institute? No. How long? ——.

29. Will you be willing to undertake a Home Study or Reading Course provided by the District Council? Yes.

30. Have you ever made application and been refused promotion? No. Why? ——.

31. Are you willing to conform to the advise of your District Officiary and older brethren in the ministry pertaining to your deportment and your labors as a minister? Yes.

32. Do you accept tobacco users or divorced or remarried persons in the ministry or as Church or Sunday School teachers or officials? No.

33. Are you willing to support the District Council in its policies and purposes and to cooperate with the brethren of the District fellowship in those matters

which require united effort for the spread of the Gospel, financially and otherwise, at home and abroad? Yes.

(Your Signature) /s/ Marvin E. Gorman

RECOMMENDATION

We do hereby set our seal on these statements and assume all responsibility knowing the applicant to be worthy of the recommendation herein given.

Signed /s/ O. M. Montgomery
Pastor

Signed /s/ E. B. Slaughter
Deacon

Signed /s/ E. B. Jones
Sectional Presbyter

IMPORTANT—Please fill out this blank, secure the proper endorsements and send to the Sectional Presbyter of the Section in which you reside with a fee of 50c to help wth prnting, stenographic work, etc. Your application will be taken before the Committee at the annual Sectional Council held in your Section. Your Sectional Presbyter will notify you as to the date and place this Council will be held. Please notify him of any change in address.

MARVIN GORMAN and MARVIN GORMAN MINISTRIES, INC.	)	CIVIL DISTRICT COURT
VS. NO. 87-5289-K	)	PARISH OF ORLEANS
JIMMY SWAGGART, JIMMY SWAGGART MINISTRIES, INC., ET AL.	)	STATE OF LOUISIANA
FILED: _____	)	_____ DEPUTY CLERK

FIRST SUPPLEMENTAL AND
AMENDING PETITION

(Filed May 22, 1987)

NOW INTO COURT, through undersigned counsel, comes MARVIN GORMAN and MARVIN GORMAN MINISTRIES, INC., plaintiffs in the above entitled and numbered cause, who now supplement and amend their original Petition in the following respects:

I.

Paragraph 11 of the original Petition is hereby deleted and substituted with the following paragraph to read in its entirety as follows:

"11.

On August 20, 1986, Jimmy Swaggart wrote the defendant, Cecil Janway and others, instructing Janway that if Louisiana District Council of the Assemblies of God did not handle Marvin Gorman in a manner acceptable to Jimmy Swaggart, then Swaggart would take matters into his own hands. (A copy of Swaggart's letter is

attached hereto as Exhibit 2 and made a part hereof.) This letter depicts Jimmy Swaggart's intent, after several months of conspiring, plotting and coercing with the other defendants, to remove Marvin Gorman from the ministry and cause Marvin Gorman Ministries, Inc. to go bankrupt. Said August 20 letter also contained an enclosure wherein Jimmy Swaggart impuned the manner in which Marvin Gorman and Marvin Gorman Ministries, Inc. conducted its business."

II.

Paragraph 13 of the original Petition is hereby deleted and substituted with the following paragraph to read in its entirety as follows:

"13.

The above referred to statement contained false statements, including but not limited to, the following:

> Established evidence and fact prove that Marvin E. Gorman engaged in multiple immoral incidents over a period of years which included adultery, illicit affairs, and unscriptural lascivious conduct with women who came to him for counselling . . . we cannot minimize the loathsomeness of sin or the horrendous consequences of sin and the damage, hurt and pain it can bring to an individual, family, church, community or nation . . . There are national ministries recognized and endorsed by the Louisiana District Council and the General Council of the Assemblies of God. Marvin Gorman Ministries is not one of them now, and in fact has never been one of them . . . If Marvin Gorman fully confesses and repents God will forgive him and by the process of time and proven performance, Marvin Gorman can be restored.

Said September 2, 1986 letter was authored under the leadership and draftmanship of Jimmy Swaggart, William D. Treeby, and Michael Indest in concert with The First Assembly of God Church of New Orleans, Louisiana, Inc. and its Board of Directors, Cecil Janway, G. Raymond Carlson of the Louisiana District Council of the Assemblies of God and the General Council of the Assemblies of God, respectively, and other defendants in the lawsuit."

III.

Paragraph 15 of the original Petition is hereby deleted and substituted with the following paragraph to read in its entirety as follows:

"15.

After knowing that Marvin Gorman Ministries, Inc. was not going bankrupt and Marvin Gorman was going to continue his television and pulpit ministry, the defendants, Jimmy Swaggart and Jimmy Swaggart Ministeries, Inc., did conspire together with all other defendants and did cause the defendants, Cecil Janway and the Louisiana District Council for Assemblies of God to endorse the above referred to statement, knowing that the statement was false and in total disregard for the statements truthfulness or falsity. Said malice was evident by the defendants' failure to confirm the numerous purported allegations along with the defendants' refusal to confront Marvin Gorman with proof of the same. Moreover, in furtherance of said conspiracy, Jimmy Swaggart did cause Mr. Richard Dortsch, formerly a board member with the PTL network, to remove all program time of Marvin Gorman Ministries, Inc. and did coerce, cause and encourage others

to do the same. Don Brankel, Evangelist, did enter the conspiracy by spreading false statements about Marvin Gorman's involvement with a female evangelist which resulted in her divorce."

IV.

Paragraph 18 of the original Petition is hereby deleted and substituted with the following paragraph to read in its entirety as follows:

"18.

On or about the first Saturday of November, 1986, the defendant, Waldo Risner, as Associate Pastor for The First Assembly of God Church of New Orleans, Louisiana, Inc. and as a party to the conspiracy, did approach Ms. Eileen Melancon about making a contribution to the church. When Ms. Melancon advised Waldo Risner that she was now attending the Metropolitan Christian Center pastored by Marvin Gorman, he, as a party to the conspiracy, advised her that

> 'Marvin Gorman was guilty of multiple adulterous affairs with women, two of the women having given statements that they had birthed illegitimate children by Marvin Gorman, and that Marvin Gorman was another Jim Jones, a fake.' "

V.

Paragraph 19 of the original Petition is hereby deleted and substituted with the following paragraph to read in its entirety as follows:

"19.

In or around the latter part of November, 1986, the defendant, Michael Indest, along with another pastor for

the Lakeview Christian Center, did meet, in furtherance of the conspiracy, with Mr. Clarence E. Banks of Eight Mile, Alabama and tell Mr. Banks, in the presence of other witnesses, that Marvin Gorman "had at least five adulterous affairs during the last seven years, one of which lasted approximately five years." During this meeting Mr. Banks requested to see copies of Michael Indest's file wherein Mr. Indest showed Mr. Bank copies of the September 2, 1986 statement and correspondence of Jimmy Swaggart but could not produce any statements regarding the purported accusations."

VI.

Paragraph 20 of the original Petition is hereby deleted and substituted with the following paragraph to read in its entirety as follows:

"20.

In June and early July of 1986, Marvin Gorman, in behalf of the First Assembly of God Church of New Orleans, Louisiana, Inc., and Marvin Gorman Ministries, Inc. had arranged for financing for the First Assembly of God Church of New Orleans, Inc.'s new auditorium which would seat more than 2,500 people and for Marvin Gorman Ministries, Inc's purchase of Channel 11 in Houma, Louisiana and Marvin Gorman Ministries, Inc's purchase of Channel 29 (KVHP) in Lake Charles, Louisiana. Said financing was approved by the Affiliated Managers' Bonding Company with interim financing from local financial institutions. Prior to said date, Marvin Gorman Ministries, Inc. had entered into buy/sell agreements to purchase said television stations. In September, 1986, the

defendant, Allan McDonnel, as a board member for the First Assembly of God Church of New Orleans, Louisiana, Inc. and in furtherance of the conspiracy did contact Affiliated Managers' Bonding Company and certain local financial institutions along with others and did maline the credit of Marvin Gorman and Marvin Gorman Ministries, Inc. and did slander Marvin Gorman's reputation, as well as imply dishonesty as to Marvin Gorman Ministries's method of doing business resulting in Affiliated Managers' refusal to finance the purchase of the television stations, as well as Marvin Gorman and Marvin Gorman Ministries, Inc. losing credit with other financial institutions. Marvin Gorman Ministries, Inc. was unable to perform on the buy/sell agreement of Channel 29 (KVHP) in Lake Charles, Louisiana."

VII.

Paragraph 24 of Count 2 is hereby deleted and substituted with the following paragraph to read in its entirety as follows:

"COUNT II

24.

The defendants and co-conspirators acting by and through Michael Indest and Tom Miller as pastors of Lakeview Christian Center and Canal Street Assembly of God, respectively, did make false statements in New Orleans, Orleans Parish, Louisiana, knowing that said statements were false or in total reckless disregard for the truthfulness of those statements on September 16, 1986 before the Assembly of God pastors belonging to the New

Orleans Section of the Louisiana Assemblies of God churches. Said statements, stated above, do constitute *defamation per se* and were made maliciously and with the intention to malign, harm and inflict mental anguish on Marvin Gorman and to further the scheme of destroying his reputation, respect and integrity. Moreover, such statements made about a minister without further proof demonstrates maliciousness and unconscionable conduct on the part of these defendants. As a result of these false statements, Marvin Gorman and Marvin Gorman Ministries, Inc. have suffered damages as follows:

Marvin Gorman

(a) Past, present and future loss of integrity, reputation and respect	$ 5,000,000.00
(b) Past, present and future mental pain, anguish and suffering and distress	$ 5,000,000.00
(c) Past, present and future loss of income and other consequential damages	$ 5,000,000.00
TOTAL	$15,000,000.00

Marvin Gorman Ministries, Inc.

(a) Past, present and future loss of integrity, reputation, respect and goodwill	$ 5,000,000.00
(b) Past, present and future loss of income and other consequential damages	$10,000,000.00
TOTAL	$15,000,000.00''

VIII.

Paragraph 25 of Count 3 is hereby deleted and substituted with the following paragraph to read in its entirety as follows:

"COUNT III

25.

The defendants, in furtherance of the conspiracy acting through Michael Indest, pastor of Lakeview Christian Center, did make malicious and false statements to Mr. Eugene E. Banks in the latter part of November, 1986 knowing that the statements were false or in total reckless disregard of their truthfulness or falsity. These statements were made intentionally and purposefully to inflict emotional and mental distress upon Marvin Gorman and to further culminate a series of events previously made by the defendants and attempts to totally bankrupt, destroy and disrupt the livelihood and existence of Marvin Gorman and Marvin Gorman Ministries, Inc.

These statements and innuendos made by Michael Indest not only to Clarence Banks but to various media personnel have invaded the privacy of Marvin Gorman by revealing private facts and placed him in a 'false light' before the public. The defendant did intentionally meet with Mr. Clarence E. Banks with the understanding that Mr. Banks would be considering the possibility of loaning monies to Marvin Gorman or Marvin Gorman Ministries, Inc. and thus did attack the professional, financial and moralistic competence of the plaintiffs, causing great damage.

As a result of these false statements Marvin Gorman and Marvin Gorman Ministries, Inc. have suffered damages as follows:

Marvin Gorman

(a) Past, present and future loss of integrity, reputation and respect	$ 1,000,000.00
(b) Past, present and future mental pain, anguish and suffering and distress	$ 500,000.00
(c) Past, present and future loss of income	$ 500,000.00
TOTAL	$ 2,000,000.00

Marvin Gorman Ministries, Inc.

(a) Past, present and future loss of integrity, reputation, respect and goodwill	$ 1,000,000.00
(b) Past, present and future loss of income and consequential damages	$ 2,000,000.00
TOTAL	$ 3,000,000.00"

IX.

Paragraph 26 of Count IV is hereby deleted and substitute with the following paragraph to be read in its entirety as follows:

"COUNT IV

26.

The defendants, in furtherance of the conspiracy, acting through Waldo Risner as an associate pastor of the First Assembly of God Church of New Orleans, Louisiana,

Inc., did intentionally, maliciously and unjustifiably make false statements to one Eileen Melancon, and others better known to defendants, in late November, 1986 in an attempt to solicit monies from Eileen Melancon and convince Ms. Melancon to return to the First Assemmbly of God Church of New Orleans, Louisiana and not attend Marvin Gorman's new church, The Metropolitan Christian Center. As a result of these statements, made by Waldo Risner and The First Assembly of God Church of New Orleans, Louisiana, Inc., the plaintiffs, Marvin Gorman and Marvin Gorman Ministries, Inc., have suffered a great loss of reputation, respect and integrity, both privately and professionally, and have suffered great mental anguish and suffering.

The defendants did make such statemetns maliciously, falsely and with total reckless disregard for their truth which was further substantiated by their failure to back up said allegations with statements from the purported accusers. As a result of said defamation, intentional infliction of emotional distress and invasion of privacy, the plaintiffs, Marvin Gorman and Marvin Gorman Ministries, Inc., did suffer damages as follows:

Marvin Gorman

(a) Past, present and future loss of integrity, reputation and respect	$ 2,500,000.00
(b) Past, present and future mental pain, anguish and suffering and distress	$ 2,500,000.00
(c) Past, present and future loss of income and other consequential damages	$ 2,500,000.00

TOTAL ..... $ 7,500,000.00

Marvin Gorman Ministries, Inc.

(a) Past, present and future loss of integrity, reputation, respect and goodwill ..... $ 2,500,000.00

(b) Past, present and future loss of income and other consequential damages ..... $ 5,000,000.00

TOTAL ..... $ 7,500,000.00''

X.

Paragraph 27 of Count V is hereby deleted and substituted with the following paragraph to read in its entirety as follows:

''COUNT V

27.

The defendants, in furtherance of the conspiracy acting through Allan McDonnel as a Board of Director for the First Assembly of God Church of New Orleans, Louisiana, Inc., did intentionally, maliciously and unjustifiably make false statements about Marvin Gorman and Marvin Gorman Ministries, Inc.'s credit to Affiliated Managers, Mr. Jim Sackman, local financial institutions, and others better known to defendant over a period of months for the purposes of destroying not only Marvin Gorman but Marvin Gorman Ministries, Inc.

The defendant did make such statements maliciously, falsely and with total reckless disregard for their truth and as a result of said *defamation per se,* intentional infliction of emotional distress and invasion of privacy, the plain-

tiffs, Marvin Gorman and Marvin Gorman Ministries, Inc., did suffer damages as follows:

Marvin Gorman

(a) Past, present and future loss of integrity, reputation and respect	$ 2,000,000.00
(b) Past, present and future mental pain, anguish and suffering and distress	$ 1,000,000.00
(c) Past, present and future loss of income	$ 2,000,000.00
TOTAL	$ 5,000,000.00

Marvin Gorman Ministries, Inc.

(a) Past, present and future loss of integrity, reputation, respect and goodwill	$ 2,500,000.00
(c) Past, present and future loss of income and consequential damages	$ 2,500,000.00
TOTAL	$ 5,000,000.00"

The plaintiffs are entitled to reasonable attorney's fees in an amount fixed by the Court.

XI.

The plaintiffs hereby delete the prayers for Counts 1 through 5 of the original Petition and substitute the following prayers to read in their entirety as follows:

"COUNT 1:

WHEREFORE, plaintiffs, MARVIN GORMAN AND MARVIN GORMAN MINISTRIES, INC., PRAY that

after due proceedings had there be judgment in favor of plaintiffs and against all defendants, jointly and *in solido,* in the full and true sum of THIRTY MILLION AND NO/100 ($30,000,000.00) DOLLARS, together with reasonabe attorney's fees as fixed by this Court, and legal interest from the date of judicial demand.

COUNT 2:

WHEREFORE, plaintiffs, MARVIN GORMAN AND MARVIN GORMAN MINISTRIES, INC., PRAY that after due proceedings had there be judgment in favor of Marvin Gorman and Marvin Gorman Ministries, Inc. and against all defendants, jointly and *in solido,* in the full and true sum of THIRTY MILLION AND NO/100 ($30,000,-000.00) DOLLARS, together with reasonable attorney's fees as fixed by this Court, and legal interest from the date of judicial demand.

COUNT 3:

WHEREFORE, plaintiffs, MARVIN GORMAN AND MARVIN GORMAN MINISTRIES, INC., PRAY that after due proceedings had there be judgment in favor of Marvin Gorman and Marvin Gorman Ministries, Inc. and against all defendants, jointly and *in solido,* in the full and true sum of FIVE MILLION AND NO/100 ($5,000,-000.00) DOLLARS, together with reasonable attorney's fees as fixed by his Court, and legal interest from the date of judicial demand.

COUNT 4:

WHEREFORE, plaintiffs, MARVIN GORMAN AND MARVIN GORMAN MINISTRIES, INC., PRAY that

after due proceedings had there be judgment in favor of Marvin Gorman and Marvin Gorman Ministries, Inc. and against all defendants, jointly and *in solido,* in the full and true sum of FIFTEEN MILLION AND NO/100 ($15,000,000.00) DOLLARS, together with reasonable attorney's fees as fixed by this Court, and legal interest from the date of judicial demand.

COUNT 5:

WHEREFORE, plaintiffs, MARVIN GORMAN AND MARVIN GORMAN MINISTRIES, ,INC., PRAY that after due proceedings had there be judgment in favor of Marvin Gorman and Marvin Gorman Ministries, Inc. and against all defendants, jointly and *in solido,* in the full and true sum of TEN MILLION AND NO/100 ($10,000,-000.00) DOLLARS, together with reasonabe attorney's fees as fixed by this Court, and legal interest from the date of judicial demand.

Plaintiffs PRAY for trial by jury.

Plaintiffs PRAY further for any and all general and equitable relief."

BY THEIR ATTORNEYS,
FRASIER & FRASIER

BY: /s/ TOMMY DEE FRASIER
THOMAS DEE FRASIER
1700 S.W. Boulevard
Tulsa, Oklahoma 74101
(918) 584-4724

LUNDY & DWIGHT

BY: /s/ HUNTER W. LUNDY
HUNTER W. LUNDY
One Lakeside Plaza
P. O. Box 3009
Lake Charles, LA 70602
(318) 329-0707

PLEASE SERVE:

JIMMY SWAGGART
at Jimmy Swaggart Ministries, Inc.
8919 World Ministry Avenue
Baton Rouge, LA 70810

JIMMY SWAGGART MINISTRIES, INC.
through its agent for service,
William D. Treeby
Stone, Pigman, Walther, Wittmann
& Hutchinson
546 Carondelet Street
New Orleans, LA 70130

WILLIAM D. TREEBY
at the law office of
Stone, Pigman, Walther, Wittmann
& Hutchinson
546 Carondelet Street
New Orleans, LA 70130

THE FIRST ASSEMBLY OF GOD CHURCH OF
NEW ORLEANS, LOUISIANA, INC.
through its agent for service,
Reverend James Brown
8825 Airline Hwy.
New Orleans, LA

LOUISIANA DISTRICT COUNCIL OF THE
ASSEMBLIES OF GOD, INC.
through its agent for service,
Reverend Cecil Janway
2717 W. MacArthur Drive
Alexandria, LA 71301

THE GENERAL COUNCIL OF THE
ASSEMBLIES OF GOD, INC.

through its agent for service,
Honorable James H. Brown,
Louisiana Secretary of State
Baton Rouge, LA

CECIL JANWAY
2717 MacArthur Drive
Alexandria, LA 71303

G. RAYMOND CARLSON
through his agent for service,
Honorable James H. Brown,
Louisiana Secretary of State,
Baton Rouge, LA

MICHAEL INDEST
at Lakeview Christian Center
132 Veterans Boulevard
New Orleans, LA 70124

LAKEVIEW CHRISTIAN CENTER
through its agent for service,
William D. Treeby
Stone, Pigman, Walther, Wittmann
& Hutchinson
546 Carondelet Street
New Orleans, LA 70130

TOM MILLER
at Canal Street Assembly of God Church, Inc.
4737 Canal Street
New Orleans, LA 70119

CANAL STREET ASSEMBLY OF
GOD CHURCH, INC.
through its pastor,
Tom Miller
4737 Canal Street
New Orleans, LA 70119

WALDO RISNER
2913 Tennessee Street
Apartment B
Kenner, LA 70065

ALLAN McDONNEL
4628 Folse Street
Metairie, LA 70006

or

2450 Severn Avenue
Metairie, LA 70001

DON BRANKEL
at Jimmy Swaggart Ministries, Inc.
8919 World Ministry Avenue
Baton Rouge, LA 70810

CIVIL DISTRICT COURT
PARISH OF ORLEANS
STATE OF LOUISIANA

MARVIN GORMAN and MARVIN GORMAN MINISTRIES, INC. VS. NO. 87-5289, JIMMY SWAGGART, JIMMY SWAGGART MINISTRIES, INC., WILLIAM D. TREEBY, THE FIRST ASSEMBLY OF GOD CHURCH OF NEW ORLEANS, LOUISIANA, INC., LOUISIANA DISTRICT COUNCIL OF THE ASSEMBLIES OF GOD, INC., THE GENERAL COUNCIL OF THE ASSEMBLIES OF GOD, LAKEVIEW CHRISTIAN CENTER, CANAL ST. ASSEMBLY OF GOD, INC., MICHAEL INDEST, TOM MILLER, CECIL JANWAY, G. RAYMOND CARLSON, WALDO RISNER, ALLAN MCDONNEL and DON BRANKEL.

FILED: 3/24/87

DEPUTY CLERK

PETITION

The Petition of MARVIN GORMAN and MARVIN GORMAN MINISTRIES, INC. with respect represent that:

1.

Petitioner, MARVIN GORMAN is a citizen and resident of Metairie, Jefferson Parish, Louisiana. MARVIN GORMAN MINISTRIES, INC. is a domestic, non-profit corporation with its principal place of business in Metairie, Louisiana.

Made defendants herein are:

(a) JIMMY SWAGGART, a resident of Baton Rouge, Baton Rouge Parish who may be served at his place of business, Jimmy Swaggart Ministries, Inc., 8919 World Ministry Avenue,, Baton Rouge, Louisiana 70810;

(b) JIMMY SWAGGART MINISTRIES, INC., a non-profit Louisiana corporation with its principal place of business in Baton Rouge, Louisiana, who may be served through its agent for service of process, Mr. William D. Treeby, Stone, Pigman, Walther, Wittmann & Hutchinson, 546 Carondelet, New Orleans, Louisiana 70130;

(c) WILLIAM D. TREEBY, an individual domiciled in Orleans Parish, Louisiana who may be served at his place of business, Stone, Pigman, Walther, Wittmann & Hutchinson, 546 Carondelet, New Orleans, Louisiana 70130;

(d) THE FIRST ASSEMBLY OF GOD CHURCH OF NEW ORLEANS LOUISIANA, INC., a non-profit corporation whose principal place of business being in Orleans Parish, Louisiana who may be served through its agent for service of process, Reverend James Brown, 8825 Airline Highway, New Orleans, Louisiana or Mr. Carl Miller, 8825 Airline Highway, New Orleans, Louisiana;

(e) LOUISIANA DISTRICT COUNCIL OF THE ASSEMBLIES OF GOD, INC., a non-profit corporation whose principal place of business is located in Rapides Parish, Alexandria, Louisiana and may be served through its agent for service of process, Reverend Cecil Janway at 2717 W. MacArthur Drive, Alexandria, Louisiana 71301;

(f) THE GENERAL COUNCIL OF THE ASSEMBLIES OF GOD, INC., a foreign, non-profit

corporation whose principal place of business is Springfield, Missouri who may be served through the Secretary of State of Louisiana;

(g) CECIL JANWAY, an individual who resides in Rapides Parish, Alexandria, Louisiana who may be served at his place of business, 2717 MacArthur Drive, Alexandria, Louisiana 71303;

(h) G. RAYMOND CARLSON, a non resident defendant who may be served through the Secretary of State of Louisiana;

(i) MICHAEL INDEST, a resident of Orleans Parish, Louisiana who may be served at his place of business, Lakeview Christian Center, 132 Veterans Boulevard, New Orleans, Louisiana 70124;

(j) LAKEVIEW CHRISTIAN CENTER, a non-profit corporation whose principal place of business is in Orleans Parish, Louisiana who may be served through its agent for service of process, Mr. William D. Treeby, Stone, Pigman, Walther, Wittman & Hutchinson, 546 Carondelet, New Orleans, Louisiana 70130;

(k) TOM MILLER, an individual residing in Orleans Parish, Louisiana who may be served at his place of business, Canal Street Assembly of God Church, Inc., 4737 Canal Street, New Orleans, Louisiana 70119;

(i) CANAL STREET ASSEMBLY OF GOD CHURCH, INC., a non-profit corporation with its principal place of business in Orleans Parish, Louisiana who may be served through its pastor Tom Miller at 4737 Canal Street, New Orleans, Louisiana 70119;

(m) WALDO RISNER, a resident of Jefferson Parish, Louisiana who may be served at his place of residence 2913 Tennessee Street, Apartment B, Kenner, Louisiana 70065;

(n) ALLAN MCDONNEL, a resident of Jefferson Parish, Louisiana who may be served at his place of residence, 4628 Folse Street, Metairie, Louisiana 70006, or at his place of business 2450 Severn Avenue, Metairie, Louisiana 70001;

(o) DON BRANKEL a non resident who may be served at his place of business, Jimmy Swaggart Ministries, Inc. 8919 World Ministry Avenue, Baton Rouge, Louisiana 70810.

3.

The plaintiff, MARVIN GORMAN, is a Minister of the Gospel of Jesus Christ who is presently pastoring the Metropolitan Christian Center in Metairie, Louisiana. From 1957 until 1986, Marvin Gorman served as an ordained minister for the Assembly of God Church working throughout the states of Louisiana and Arkansas. Marvin Gorman pastored the First Assembly of God Church of New Orleans, Louisiana, Inc. from 1965 until July 16, 1986. During these years, the attendance of the First Assembly of God of New Orleans, Inc. increased from 120 in 1965 to over 5,000 in 1986. Marvin Gorman enjoyed a widespread reputation of love, trust, integrity, and honesty as well as being accepted by Christians as one inspired by the Written Word of God both in his professional and private life.

4.

MARVIN GORMAN MINISTRIES, INC. is a non-profit corporation whose president is Marvin Gorman which was established by Marvin Gorman and others in 1969 for the purpose of using methods of communica-

tion, other than the pulpit of a church congregation, to spread the Gospel of Jesus Christ. More particularly, Marvin Gorman Ministries, Inc. is a television ministry operated by Marvin Gorman and his family with a staff now consisting of approximately 30 employees. Prior to September, 1986 Marvin Gorman Ministries, Inc. employed approximately 60 employees. Marvin Gorman Ministries, Inc.'s operation includes, but is not limited to, ministry through leased cable television stations, contract air time on stations throughout the United States, purchased program time through various networks, and numerous other methods of communication e.g., video and television.

5.

During his tenure as an ordained Assembly of God Minister, Marvin Gorman had the respect and admiration of other ministers to the extent that he was elected to serve as the Assistant District Superintendent for the Louisiana Council of Assemblies of God, served as General Presbyter for the Louisiana District of the Assemblies of God and also served as Executive Presbyter for the National Organization of the Assemblies of God. During this 29 year period, Marvin Gorman ministered, preached, and counseled with, hundreds of thousands of persons, thousands of which became converted Christians, via the message of Jesus Christ preached by Marvin Gorman.

6.

On July 15, 1986 Marvin Gorman was asked by Michael Indest and David Savage of New Orleans to go see Jimmy Swaggart in Baton Rouge with respect to allega-

tions of immoral conduct against Marvin Gorman. Upon arrival to Jimmy Swaggart's office in Baton Rouge on the late evening of July 15, 1986, a meeting was held wherein William D. Treeby, Michael Indest, Jimmy Swaggart, David Savage, Jim Rentz and Reverend Marvin Gorman were present.

During this meeting, Jimmy Swaggart accused Marvia Gorman of numerous immoral acts over a period of a number of years with several women. Marvin Gorman admitted having committed a sin or an immoral act with one woman approximately seven years earlier. Marvin Gorman stated openly that he had repented and had been forgiven by God for this act and that he hoped to be forgiven by his fellow brethren, congregation and family since these gentlemen now wished to expose this matter to the public. Contrary to Gorman's representations, Swaggart called Gorman a liar and told him that he had not repented and that he needed to come clean with his confession, leave the ministry and seek rehabilitation. In response, Marvin Gorman told Jimmy Swaggart that all of these allegations were not true and that he would not give up the ministry. Upon Jimmy Swaggart's insistence, he drove Marvin Gorman back to New Orleans arriving approximately 12:30 a.m. on July 16, 1986. By 1:20 a.m., Marvin Gorman was receiving telephone calls from church members stating that Frances Swaggart, a Director for Jimmy Swaggart Ministries, Inc. and spouse of Jimmy Swaggart, had been calling the associate pastor and members of Marvin Gorman's church repeating the false allegations.

7.

Despite Marvin Gorman's sincere belief that God had forgiven him for his sin, he felt it to be in the best interest of The First Assembly of God of New Orleans, Louisiana, Inc.'s to comply with their Board's request and resign. Thus, on July 16, 1986, Marvin Gorman tendered his fellowship card and resigned as a member of the Assembly of God denomination in the presence of the District Superintendent of the Louisiana Council of the Assemblies of God, the Secretary/Treasurer of the Louisiana Council of the Assemblies of God, and the Board of Directors of The First Assembly of God Church of New Orleans, Louisiana, Inc. The resignation was accepted and on Wednesday evening, July 16, 1986, it was decided that a simple statement would be made to the church congregation that Reverend Gorman had resigned to the Board of Directors.

8.

Ignoring his resignation, Jimmy Swaggart, and those better known to him associated with Jimmy Swaggart Ministries, The First Assembly of God Church of New Orleans, Louisiana, Inc., and the Louisiana District Council for the Assemblies of God insisted on Marvin Gorman leaving the ministry in its entirety, going into rehabilitation for two years and leaving Marvin Gorman Ministries, Inc., and others depending on its existence for bankruptcy. Marvin Gorman refused.

9.

On July 20, 1986 a statement prepared in concert by Jimmy Swaggart, William D. Treeby, the Pastoral Staff

and the Board of Directors of the First Assembly of God Church of Louisiana, Inc., i.e., Don Flanagan, Carl Miller, Waldo Risner, Allan McDonnel and others, and Michael Indest, Pastor of Lakeview Christian Center, was read to the congregation of The First Assembly of God Church of New Orleans, Louisiana, Inc. accusing Marvin Gorman of numerous adulterous and illicit affairs.

10.

On August 14, 1986 the General Secretary for the General Council for the Assemblies of God wrote Marvin Gorman a letter informing him that his name would be shown as dismissed from the ministeral list of the Assemblies of God Church. This letter was written after Marvin Gorman had resigned and his letter had been accepted by the Louisiana District Council of the Assemblies of God. (A copy of said letter is attached hereto as exhibit "1" and made a part hereof.)

11.

On August 20, 1986, Jimmy Swaggart wrote the defendant, Cecil Janway, instructing him that if Louisiana District of Assemblies of God did not handle Marvin Gorman in a manner acceptable to Jimmy Swaggart, then Swaggart would take matters ino his own hands. (A copy of Swaggart's letter is attached hereto as exhibit "2" and made a part hereof.)

This letter further depicts Jimmy Swaggart's intent after several months of conspiring, plotting, and coercing officials of the Assembly of God Church to agree to the removal of Marvin Gorman from the ministry.

12.

On Tuesday, September 2, 1986, the defendant, Cecil Janway, District Superintendent of the Louisiana District Council of the Assemblies of God, Inc. read a statement to the congregation of The First Assembly of God Church of New Orleans, Louisiana, Inc. which was subsequently read in Assemblies of God congregations throughout the State of Louisiana and distributed by mail to all members of the Louisiana District Council as well as pastors of churches of other denominations, the general public, and further distributed not only throughout the State of Louisiana and the United States of America, but to missionaries abroad. (A copy of the September 2, 1986 letter is attached hereto as exhibit "3" and made a part hereof.)

13.

The above referred to statement contained false statements, including but not limited to, the following:

> "Established evidence and fact prove that Marvin E. Gorman engaged in multiple immoral incidents over a period of years which included adultery, illicit affairs, and unscriptural lascivious conduct with women who came to him for counseling . . . we cannot minimize the loathsomeness of sin or the horrendous consequences of sin and the damage hurt and pain it can bring to an individual, family, church, community or nation. . . . There are national ministries recognized and endorsed by the Louisiana District Council and the General Council of the Assemblies of God. Marvin Gorman Ministries is not the one of them now, and in fact has never been one of them. . . . If Marvin Gorman fully confesses and repents God will forgive him and by the process of time and proven performance, Marvin Gorman can be restored."

Said September 2, 1986 letter was authored under the leadership and draftsmanship of Jimmy Swaggart, William D. Treeby and Michael Indest in concert with The First Assembly of God Church of New Orleans, Louisiana, Inc. and its Board of Directors with the approval of Cecil Janway and G. Raymond Carlson of the Louisiana District Council of the Assemblies of God and the General Council of the Assemblies of God, respectively.

14.

Prior to the above referred publication and statement, Marvin Gorman had requested that he be confronted by his accusers, only to be denied by the defendants. Moreover, Marvin Gorman requested that he have an opportunity to review the statements allegedly taken from numerous women only to have been denied the same. Moreover Marvin Gorman did in fact receive telephone calls from women, who represented that their names were used improperly by the defendants, to rectify their action towards Marvin Gorman. Particularly, one woman indicated that she confronted Carl Miller immediately prior to the reading of the September 2, 1986 letter to The First Assembly of God Church of New Orleans, Louisiana, Inc. congregation, only to be rejected. Despite this, the defendants, Jimmy Swaggart, William D. Treeby, Jimmy Swaggart Ministries, Inc., The First Assembly of God Church of New Orleans Louisiana, Inc., Michael Indest and Lakeview Christian Center and others stated hereinabove caused to be published the above referred to false statement, knowing that the statements were false or in total reckless disregard for their truthfulness or falsity.

15.

After knowing that Marvin Gorman Ministries, Inc. was not going to go bankrupt and Marvin Gorman was going to continue his television ministry, the defendants, Jimmy Swaggart and Jimmy Swaggart Ministries, Inc. did conspire together with board members of The First Assembly of God Church of New Orleans, Louisiana, Inc., Michael Indest and other persons better known to them, to coerce, cause and encourage the defendant Cecil Janway and the Louisiana District Council for Assemblies of God to endorse the above referred to statement knowing that the statement was false and in total reckless disregard for the statement's truthfulness or falsity. Said maliciousness was evident by their failure to confirm the numerous purported allegations along with their refusal to confront Marvin Gorman with proof of the same. Moreover, Jimmy Swaggart did coerce, encourage and cause Mr. Jim Bakker, formerly President and Chairman of the Board of the PTL Network, to remove all program time of Marvin Gorman Ministries, Inc. and did coerce, cause and encourage others to do the same. Don Brankel, evangelist, did conspire with Jimmy Swaggart and others to spread false statements about Marvin Gorman i.e. Gorman's involvement with a female evangelist that resulted in her divorce.

16.

During the period of months involving the above plead scenario, Jimmy Swaggart was not, and still is not, an official with the First Assembly of God Church in New Orleans, or with district, state or national organization.

17.

On September 16, 1986 in the presence of a number of Assembly of God pastors belonging to the New Orleans Section of the Louisiana Assemblies of God Churches, defendants Michael Indest and Tom Miller, individually and in their official capacities as pastors of the Lakeview Christian Center and the Canal Street Assembly of God, respectively, did state the following:

> "The First Assembly of God Church of New Orleans is fixing to go through a great warfare because of the work of the devil, the hurt that satan had already brought in the church through Brother Gorman's failure as pastor."

The defendant Michael Indest went on further to state:

> "Brother Tom Miller has something to share with the group that I believe with all my soul."

Miller stated:

> "I was conducting an exorcism at my church on a "deaf, mute young lady" and during the service she went into a sort of a fit of rage. And when I cast the devil out of the deaf, mute the devil spoke in a man's voice and that man's voice was the voice of Marvin Gorman."

Miller went on to state:

> "that I have heard that voice many times and that I was sure it was the voice of Marvin Gorman."

Miller stated further:

> "that because the devil's messenger had been hurt, (referring to Brother Gorman), that satan was going

> to bring out an attack that would bring great hurt upon the churches in the New Orleans area."

18.

On or about the first Saturday of November, 1986 the defendant Waldo Risner, individually and in his official capacity as Associate Pastor for The First Assembly of God Church of New Orleans, Louisiana, Inc. did approach Ms. Eileen Melancon about making a contribution to the church. When Ms. Melancon advised Waldo Risner that she was now attending the Metropolitan Christian Center pastored by Marvin Gorman he advised her that

> "Marvin Gorman was guilty of multiple adulterous affairs with women," two of the women having given statements that they had birthed illegitimate children by Marvin Gorman, and that Marvin Gorman was another Jim Jones, a fake."

19.

In or around the latter part of November, 1986, the defendant, Michael Indest, along with another pastor for the Lakeview Christian Center, did meet Mr. Clarence E. Banks of Eight Mile, Alabama and tell Mr. Banks in the presence of other witnesses that Marvin Gorman "had at least five adulterous affairs during the last seven years, one of which lasted approximate y five years." During this meeting Mr. Banks requested to see copies of Michael Indest's file wherein Mr. Indest showed Mr. Banks copies of the September 2, 1986 statement and correspondence of Jimmy Swaggart but could not produce any statements regarding the purported accusations.

20.

In June and early July of 1986, Marvin Gorman in behalf of The First Assembly of God Church of New Orleans, Louisiana, Inc. and Marvin Gorman Ministries, Inc. had arranged for financing for The First Assembly of God Church of New Orleans, Louisiana, Inc.'s new auditorium which would seat more than 2,500 people, for Marvin Gorman Ministries, Inc.'s purchase of Channel 11 in Houma, Louisiana and Marvin Gorman Ministries, Inc.'s purchase of Channel 29 (KVHP) in Lake Charles, Louisiana. Said financing was approved by the Affilliated Managers Bonding Company of Amarillo, Texas. Prior to this date, Marvin Gorman Ministries, Inc. had entered into buy/sell agreements to purchase said stations. In September, 1986 the defendant, Allan McDonnel in his individual and official capacity as a board member for The First Assembly of God Church of New Orleans, Louisiana, Inc. did contact Mr. Willard May of the Affilliated Manager's Bonding Company and malign the credit of Marvin Gorman as well as personally slander Marvin Gorman's reputation, resulting in Affilliated Manager's withdrawal of their commitment to finance Marvin Gorman Ministries, Inc.'s purchase of the television station. Marvin Gorman Ministries, Inc. was unable to perform on the Buy/Sell Agreement of Channel 29 (KVHP) in Lake Charles, Louisiana.

21.

During the days and months following July 15, 1986, the defendants, Jimmy Swaggart, Jimmy Swaggart Ministries, Inc., William D. Treeby, The First Assembly of

God of Orleans, Louisiana, Inc. through the acts of its staff and board members, Michael Indest, Don Brankel and others better known to them, did make false statements and innuendos maliciously and with total disregard for the truth or falsity of said statements to citizens throughout the city. These defendants have repeated their false statements to reporters for various television stations in an attempt to get these statements published, all within their plan and scheme to destroy Marvin Gorman and Marvin Gorman Ministries, Inc. Particularly, these defendants told persons of the media and others that Marvin Gorman had "misappropriated and embezzled funds from the First Assembly of God of New Orleans, Louisiana, and that Marvin Gorman was connected with the Mafia."

COUNT I:

22.

The defendants, Jimmy Swaggart, Jimmy Swaggart Ministries, Inc., William D. Treeby, Don Brankel, Michael Indest, Lakeview Christian Center, The First Assembly of God Church of New Orleans, Louisiana, Inc., through its board members and pastoral staff, Cecil Janway, G. Raymond Carlson, The General Council of the Assemblies of God and Louisiana District Council of the Assemblies of God, Inc. sought over a period of weeks, both prior to and subsequent to Marvin Gorman's July 16, 1986, resignation, through various statements, telephone calls, innuendos and other comments, to systematically destroy the reputation, respect and integrity of Marvin Gorman and Marvin Gorman Ministries, Inc., said activities culminating in the publication and distribution of the September

2, 1986 letter referred to hereinabove. As a result of these actions, the plaintiffs, Marvin Gorman and Marvin Gorman Ministries, have suffered a great loss of reputation, respect and integrity, both privately and professionally, and as a result, plaintiff, Marvin Gorman, as well as his friends and family have suffered great mental pain and anguish to the point that it has caused physical illness.

23.

The above named defendants have maliciously, falsely and with total reckless disregard for the truth, maligned, attacked and concertedly attempted to destroy Marvin Gorman and the ministry of Marvin Gorman Ministries, including but not limited to the television contracts obtained by Marvin Gorman Ministries, program air time on various networks, the television station purchase, the Teen Challenge Rehabilitation Center, and depriving he and his family of their job, wages and benefits after some 29 years of his service with the Assembly of God denomination, causing great loss of present and future income to both Marvin Gorman and Marvin Gorman Ministries, Inc. The defendants mentioned hereinabove have concertively and intentionally inflicted emotional distress on Marvin Gorman and his family as well as have invaded his privacy with the statements in the September 2, 1986 letter placing Marvin Gorman and Marvin Gorman Ministries, Inc. in a "false light" before fellow ministers, citizens throughout the State of Louisiana, and the United States.

As a result of this *defamation per se, libel per se,* invasion of privacy and intentional infliction of emotional distress, plaintiffs Marvin Gorman and Marvin Gorman Ministries, Inc. did suffer damages itemized as follows:

Marvin Gorman

(a) Past, present and future loss of integrity, reputation and respect	$ 5,000,000.00
(b) Past, present and future mental pain, anguish and suffering and distress	$ 5,000,000.00
(c) Past, present and future loss of income and other consequential damages	$ 5,000,000.00
TOTAL	$15,000,000.00

Marvin Gorman Ministries, Inc.

(a) Past, present and future loss of integrity, reputation, respect and goodwill	$ 5,000,000.00
(b) Past, present and future loss of income and other consequential damages	$10,000,000.00
TOTAL	$15,000,000.00

COUNT II

24.

The defendants Michael Indest and Tom Miller acting individually and in their capacity as pastors of the Lakeview Christian Center and Canal Street Assembly of God respectively, did independently from the other defendants in this case, make false statements, knowing that said statements were false or in total reckless disregard for the truthfulness of those statements on September 16, 1986 before the Assembly of God pastors belonging to the New Orleans Section of the Louisiana Assemblies of God churches. Said statements, stated above, do constitute *defamation per se* and were made maliciously and with the intention to malign, harm and inflict mental anguish on Marvin Gorman and to further the scheme of destroying

his reputation, respect and integrity. Moreover, such statements made about a minister without further proof demonstrate maliciousness and unconscionable conduct on the part of these defendants. As a result of these false statements, Marvin Gorman and Marvin Gorman Ministries, Inc. have suffered damages as follows:

Marvin Gorman

(a) Past, present and future loss of integrity, reputation and respect	$ 5,000,000.00
(b) Past, present and future mental pain, anguish and suffering and distress	$ 5,000,000.00
(c) Past, present and future loss of income and other consequential damages	$ 5,000,000.00
TOTAL	$15,000,000.00

Marvin Gorman Ministries, Inc.

(a) Past, present and future loss of integrity, reputation, respect and goodwill	$ 5,000,000.00
(b) Past, present and future loss of income and other consequential damages	$10,000,000.00
TOTAL	$15,000,000.00

COUNT III

25.

The defendant Michael Indest individually and in behalf of his church the Lakeview Christian Center did intentionally make malicious and false statements to Mr. Eugene E. Banks in the latter part of November 1986 knowing that the statements were false or in total reckless

disregard of their truthfulness or falsity. These statements were made intentionally and purposefully to inflict emotional and mental distress upon Marvin Gorman and to further culminate a series of events previously made by the defendants and attempts to totally bankrupt, destroy and disrupt the livelihood and existence of Marvin Gorman and Marvin Gorman Ministries, Inc.

These statements and innuendos made by Michael Indest not only to Clarence Banks but to various media personnel have invaded the privacy of Marvin Gorman and placed him in a "false light" before the public. The defendant did intentionally meet with Mr. Clarence E. Banks with the understanding that Mr. Banks would be considering the possibility of loaning monies to Marvin Gorman or Marvin Gorman Ministries, Inc. and thus did attack the professional, financial and moralistic competence of the plaintiffs, causing great damage.

As a result of these false statements Marvin Gorman and Marvin Gorman Ministries, Inc. have suffered damages as follows:

Marvin Gorman

(a) Past, present and future loss of integrity, reputation and respect	$ 1,000,000.00
(b) Past, present and future mental pain, anguish and suffering and distress	$ 500,000.00
(c) Past, present and future loss of income	$ 500,000.00
TOTAL	$ 2,000,000.00

Marvin Gorman Ministries, Inc.

(a) Past, present and future loss of integrity, reputation, respect and goodwill	$ 1,000,000.00
(b) Past, present and future loss of income and consequential damages	$ 2,000,000.00
TOTAL	$ 3,000,000.00

COUNT IV

26.

The defendant Waldo Risner, individually and in his official capacity as an associate pastor for the First Assembly of God Church of New Orleans, Louisiana did intentionally, maliciously and unjustifiably make false statements to one Eileen Melancon, and others better known to defendant, in late November, 1986 in an attempt to solicit monies from Eileen Melancon and convince Ms. Melancon to return to The First Assembly of God Church of New Orleans, Louisiana and not attend Marvin Gorman's new church, The Metropolitan Christian Center. As a result of these statements, made by Waldo Risner and The First Assembly of God Church of New Orleans, Louisiana, the plaintiffs Marvin Gorman and Marvin Gorman Ministries, Inc. have suffered a great loss of reputation, respect and integrity both privately and professionally and have suffered great mental anguish and suffering.

These defendants did make such statements maliciously, falsely and with total reckless disregard for their truth which was further substantiated by their failure to back up said allegations with statements from the purported accusers. As a result of said defamation, intentional infliction of emotional distress and invasion of

privacy, the plaintiffs, Marvin Gorman and Marvin Gorman Ministries, Inc., did suffer damages as follows:

Marvin Gorman

(a) Past, present and future loss of integrity, reputation and respect	$ 2,500,000.00
(b) Past, present and future mental pain, anguish and suffering and distress	$ 2,500,000.00
(c) Past, present and future loss of income and other consequential damages	$ 2,500,000.00
TOTAL	$ 7,500,000.00

Marvin Gorman Ministries, Inc.

(a) Past, present and future loss of integrity, reputation, respect and goodwill	$ 2,500,000.00
(b) Past, present and future loss of income and other consequential damages	$ 5,000,000.00
TOTAL	$ 7,500,000.00

COUNT V

27.

The defendant, Allan McDonnel, individually and in his official capacity as a member of the Board of Directors for The First Assembly of God Church of New Orleans, Louisiana, did intentionally, maliciously and unjustifiably make false statements about Marvin Gorman and Marvin Gorman Ministries, Inc.'s credit to Affiliated Managers, Mr. Jim Sackman, an insurance broker, certain financial institutions, and others better known to defendant over a

period of months for the purposes of destroying not only Marvin Gorman but Marvin Gorman Ministries, Inc.

The defendant did make such statements maliciously, falsely and with total wreckless disregard for their truth and as a result of said *defamation per se,* intentional infliction of emotional distress and invasion of privacy, the plaintiffs Marvin Gorman and Marvin Gorman Ministries, Inc. did suffer damages as follows:

Marvin Gorman

(a) Past, present and future loss of integrity, reputation and respect	$ 2,000,000.00
(b) Past, present and future mental pain, anguish and suffering and distress	$ 1,000,000.00
(c) Past, present and future loss of income	$ 2,000,000.00
TOTAL	$ 5,000,000.00

Marvin Gorman Ministries, Inc.

(a) Past, present and future loss of integrity, reputation, respect and goodwill	$ 2,500,000.00
(b) Past, present and future loss of income and consequential damages	$ 2,500,000.00
TOTAL	$ 5,000,000.00

The plaintiffs are entitled to reasonable attorney's fees in an amount fixed by this court.

COUNT 1:

WHEREFORE, plaintiffs MARVIN GORMAN and MARVIN GORMAN MINISTRIES, INC. PRAY that

after due proceedings had that there be judgment in favor of plaintiffs and against the defendants, Jimmy Swaggart, Jimmy Swaggart Ministries, Inc., William D. Treeby, Don Brankel, Michael Indest, Lakeview Christian Center, The First Assembly of God Church of New Orleans, Louisiana, Inc., through its board members and pastoral staff, Cecil Janway, G. Raymond Carlson, The General Council of the Assemblies of God and Louisiana District Council of the Assemblies of God, Inc., jointly and *in solido* in the full and true sum of THIRTY MILLION ($30,000,000.00) DOLLARS, together with reasonable attorney's fees as fixed by this court, and legal interest from the date of judicial demand;

COUNT 2:

WHEREFORE, plaintiffs MARVIN GORMAN and MARVIN GORMAN MINISTRIES, INC. PRAY that after due proceedings had, there be judgment in favor of MARVIN GORMAN and MARVIN GORMAN MINISTRIES, INC. against the defendants, Michael Indest and Tom Miller, individually and in their capacity as pastors of the Lakeview Christian Center and Canal Street Assembly of God respectively, jointly and *in solido* in the full and true sum of THIRTY MILLION ($30,000,000.00) DOLLARS together with reasonable attorney's fees as fixed by this court, and legal interest from the date of judicial demand;

COUNT 3:

WHEREFORE, plaintiffs MARVIN GORMAN and MARVIN GORMAN MINISTRIES, INC. PRAY that after due proceedings had that there be judgment in favor of plaintiffs and against the defendants, Michael Indest

individually and in behalf of his church Lakeview Christian Center, jointly and *in solido* in the full and true sum of FIVE MILLION ($5,000,000.00) DOLLARS, together with reasonable attorney's fees as fixed by this court, and legal interest from the date of judicial demand;

COUNT 4:

WHEREFORE, plaintiffs MARVIN GORMAN and MARVIN GORMAN MINISTRIES, INC. PRAY that after due proceedings had, there be judgment in favor of MARVIN GORMAN and MARVIN GORMAN MINISTRIES, INC. and against the defendants, Waldo Risner, individually and in his official capacity as an Associate Pastor for The First Assembly of God Church of New Orleans, Louisiana, Inc., jointly and *in solido* in the full and true sum of FIFTEEN MILLION ($15,000,000.00) DOLLARS together with reasonable attorney's fees as fixed by this court, and legal interest from the date of judicial demand;

COUNT 5:

WHEREFORE, plaintiffs MARVIN GORMAN and MARVIN GORMAN MINISTRIES, INC. PRAY that after due proceedings had, there be judgment in favor of MARVIN GORMAN and MARVIN GORMAN MINISTRIES, INC. and against the defendants, Allan McDonnel, individually and in his official capacity as a member of the Board of Directors for The First Assembly of God Church of New Orleans, Louisiana, Inc., jointly and *in solido* in the full and true sum of TEN MILLION ($10,000,000.00) DOLLARS together with reasonable attorney's fees as fixed by this court, and legal interest from the date of judicial demand.

Plaintiffs PRAY for trial by jury.

Plaintiffs PRAY FURTHER for any and all general and equitable relief.

BY THEIR ATTORNEYS,
FRASIER & FRASIER

/s/ Thomas Dee Frasier
THOMAS DEE FRASIER
1700 S.W. Boulevard
Tulsa, Oklahoma 74101
(918) 584-4724
LUNDY & DWIGHT

/s/ Hunter W. Lundy
HUNTER W. LUNDY
One Lakeside Plaza
P.O. Box 3009
Lake Charles, Louisiana 70602
(318) 439-0707

PLEASE CITE AND SERVE:

Defendants as Stated in Paragraph 2 of this Petition

Exhibit "1"

THE GENERAL COUNCIL
OF THE ASSEMBLIES OF GOD
1445 BOONVILLE AVENUE
SPRINGFIELD, MISSOURI 65802
August 14, 1986

JOSEPH R. FLOWER
GENERAL SECRETARY

TELEPHONE
(417) 962-2781

Reverend Marvin Gorman
4008 N. Turnbull Drive
Metairie, Louisiana 70002

Dear Brother Gorman:

Greetings in the name of Christ our Lord!

The Credentials Committee of The General Council of the Assemblies of God has received from the Louisian District the information concerning your relationship with the Assemblies of God. This included a recommendation by the presbytery of the district that your name be shown as "dismissed" from the ministerial list.

After careful and prayerful consideration of the information in the case, the Credentials Committee has concurred in the recommendations of the District and will, therefore, show your name as "dismissed" from the ministerial list and also list your name accordingly in the Ministers Letter.

In conjunction with this action, your attention is called to Article IX of the General Council Bylaws which contains provisions for termination of credentials, discipline of ministers and trials and appeals.

We are sorry to learn of these matters and assure you, Brother Gorman, that we do not take any pleasure in having to take this action. We love you and have spent much time in intercession for you and your family. May the Lord enfold you in His everlasting arms.

Sincerely in the fellowship of the Master.

/s/ Joseph R. Flower
Joseph R. Flower, General Secretary

JF:jw
cc: Cecil Janway

Exhibit "2"

from the office of
Jimmy Swaggart

August 20, 1986

Reverend Cecil T. Janway
District Superintendent
Assemblies of God
2717 W. MacArthur Drive
Alexandria, LA 71303

Dear Brother Janway,

Choice Christian Greetings.

I trust this finds you well and enjoying the blessings of the Lord. We have been praying for you concerning the physical difficulties and we trust that the situation is improving.

It has been called to our attention that the possibility exists you may believe Marvin Gorman's story concerning the recent difficulty. By that, I mean what he is telling about the immoral affair being a one-time event that transpired about seven years ago.

Brother Janway, nothing could be further from the truth and a statement is enclosed concerning the order of events.

Brother Gorman confessed to two different immoral dalliances. However, he only did that when the women involved confessed and he had no alternative nor choice. His confession was made in front of several witnesses, including myself. The other witnesses included Bill Treeby, Jim Rentz, Mike Indest, and David Savage.

It is my understanding that Marvin had no sooner left our presence than he began fabricating a story as to what had happened, namely the one-time, seven years ago scenario. Everyone I have spoken with who has talked to him has stated that Marvin told the same story to them.

Brother Janway, this does not show repentance, much less any type of rehabilitation.

Consequently, *if* it is true that you believe his story you are believing it contrary to the testimony of many witnesses.

Reverend Cecil T. Janway
August 20, 1986

Page Two

Brother Gorman's case must be handled in exactly the same manner as any other minister of the Gospel in our District— no more, no less.

I am certainly not doubting your ability to handle the situation but I am very alarmed at the "rumor" concerning the believing of his story. I want it to be clearly understood that I will take whatever steps I feel are necessary to see that this situation is not covered up and that Marvin

is not treated differently than any other minister would be treated.

Our prayers are with you, that God will give you wisdom and guidance in these most trying times. We face the situation with a heavy heart. We all seek the leading and the guidance of the Holy Spirit that we may do exactly what the Spirit of God would desire.

In the Master's service, yours,

/s/ Jimmy Swaggart
Jimmy Swaggart
JS/lw

COPY:

Executive Presbyters of Louisiana
Reverend G. Raymond Carlson
Reverend Richard Dobbins
Reverend Forrest Hall
Reverend Mike Indest
Reverend Don Logan
Reverend Carl Miller
Reverend David Savage
Reverend Everett Stenhouse
Mr. Bill Treeby

Exhibit "3"

DATE: SEPTEMBER 2, 1986
TO: THE FELLOW BELIEVERS AND CONGREGATION OF FIRST ASSEMBLY OF GOD OF NEW ORLEANS, LA., INC.

FROM: REVEREND CECIL JANWAY, DISTRICT COUNCIL OF THE ASSEMBLIES OF GOD, INC.

On Sunday, July 20, 1986, your Board of Directors made a statement to the congregation in its three morning

services explaining the basis for the resignation of Marvin E. Gorman as pastor. A continuation of comments, conflicting statements and misleading explanations leads me to repeat and add to that first statement. The Louisiana District Council of the Assemblies of God, with the concurrence and agreement of the General Offices of the Assemblies of God, makes the following declarative statement in cooperation with First Assembly's Board of Directors, its interim pastoral committee, its pastoral staff, and its entire congregation.

This is no time for a vengeful spirit, for a retaliatory attitude, for vindictiveness, for pious self righteousness, or for taking pleasure in anothers suffering. At the same time it is necessary for me to speak out of the conviction of my heart, in love. The love of Calvary cannot allow the body of Christ to be led into error. Those who are spiritual leaders have accountability to God to preach the Gospel both by precept and by example. Leaders must put the welfare of the people under their influence and ministry ahead of their own interest.

The manner in which members and supporters of First Assembly have been contacted directly and indirectly by Marvin E. Gorman demonstrates a blatant disregard for ministerial ethics. Such conflict and the misleading message being given shows an absence of christian love. There has been a disregard for unity and harmony in the body of Christ and the local Assembly. The responsibility for confusion, discord, and strife coming from some media messages and the personal contacts lies at the feet of Marvin E. Gorman and individuals coming to his defense, presumably out of ignorance of the true facts. We find this

tragically unscriptural, misleading, and detrimental to the spiritual well being of all believers.

Although it hurts me deeply to do so, I must inform you as a fellow believer, spiritual leader, and as an extremely close friend of Marvin E. Gorman over many years; I believe that your board's statement on July 20, 1986 was completely true and accurate. In addition, more evidence has been presented to me and the Executive Officers of the Assemblies of God that makes it clear that the information spread by Marvin E. Gorman concerning his conduct has been incomplete and misleading. A local television broadcast was aired last week in which Marvin Gorman repeatedly stated that most, or 95%, of what was being said about him was lies. He did not say who lied or what was lied about, and this simply causes confusion. To my knowledge Marvin E. Gorman has no enemies in this district or in this church. All these men love Marvin Gorman and are praying for him to do the right thing. Established evidence and facts prove that Marvin E. Gorman engaged in multiple immoral incidents over a period of years which included adultery, illicit affairs, and unscriptural lascivious conduct with women who came to him for counseling. I have a statement from a woman telling of his conduct with her this year which was unbecoming to a minister.

We cannot minimize the loathesomeness of sin or the horrendous consequences of sin and the damage, hurt, and pain it can bring to an individual, family, church, community, or nation. "Righteousness exalteth a nation but sin is a reproach to any people."

Sin, or transgression, must be faced up to, confessed, brought to heart-wrenching repentance, turned from, renounced, put under the blood, and forsaken. Sincere requests for forgiveness should be sought by the sinner from those personally sinned against.

The accountability for sin lies at the door of every human heart, subject to every human will. No one puts a gun to our head to make us sin—it is a volitional act of free will. There is no excuse that satan trapped us, that we were seduced and ensnared. Such excuses will be of no value at the judgment seat. "Rather, every man must give an account of himself for every deed done in the body."

You do not make excuses for sin. You acknowledge your sinfulness and your sin. You do not parade your sin as a means of self-aggrandizement and gain—by explaining it, justifying it—or blaming its cause on someone else. It seems this is what is being done by Marvin E. Gorman and for Marvin E. Gorman by others.

Statements have been made locally and nationally on television ministries reflecting on the judgment, action, and integrity of your church board, congregation, and your pastoral staff that the Louisiana District Council and the General Council of the Assemblies of God totally disagree with and oppose. A local television broadcast, last week, by Marvin E. Gorman, gave some the impression that myself and other district officials, as well as some national officers, of the Assemblies of God, had somehow endorsed or approved of his continued ministry. Any such implication is erroneous, unfounded, and without permission.

There are national ministries recognized and endorsed by the Louisiana District Council and the General Council of the Assemblies of God. Marvin Gorman Ministries is not one of them now, and in fact has never been one of them.

Speaking for the Louisiana District Council, as district superintendent, I want to be crystal clear. Marvin Gorman gave up his credential, his ordination, as a minister of the Gospel with the Assemblies of God. He did so voluntarily on Wednesday, July 16, 1986. By his action he expressly chose not to seek rehabilitation and restoration to fellowship. This means he is not able to pastor an Assembly of God church, now or in the future unless he repents and submits himself to the rehabilitation process.

If he expresses true repentance and submission to the rehabilitation process prescribed by the Constitution and Bylaws of the General Council of the Assemblies of God and the Louisiana District Council he can seek restoration and reinstatement. He has not taken any steps in this direction up to this point.

The rehabilitation process is provided to allow an erring brother or elder the opportunity to experience restorative grace as set forth in scripture:

Galatians 6:1, "Brethren, if a man be overtaken in a fault, ye which are spiritual restore such a one in the spirit of meekness: considering thyself, lest thou also be tempted."

James 5:19-20, "Brethren, if any of you do err from the truth, and one convert him Let him know, that he which converteth the sinner from the error of his way shall save soul from death, and shall hide a multitude of sins."

The question is asked, if God has forgiven, why can't man forgive? The answer is everyone I know connected with the matter has expressed love and forgiveness to Marvin E. Gorman. But an elder and minister of the Gospel must be above reproach. If Marvin Gorman fully confesses and repents God will forgive him, and by the process of time and proven performance, Marvin Gorman can be restored. Let us continue to pray that this will take place.

CIVIL DISTRICT COURT
FOR THE PARISH OF ORLEANS
STATE OF LOUISIANA
DIVISION "K"

NO. 87-5289 DOCKET NO.

MARVIN GORMAN and
MARVIN GORMAN MINISTRIES, INC.

VERSUS

JIMMY SWAGGART ET AL.

FILED: _____ _____
DEPUTY CLERK

EXCEPTIONS

(Filed April 28, 1987)

NOW INTO COURT, through undersigned counsel, come defendants, Michael Indest and Lakeview Christian Center, who appear solely to file the following exceptions to plaintiffs' petition:

I. Declinatory Exception of Lack of Subject Matter Jurisdiction

This Honorable Court does not have jurisdiction over the subject matter of the lawsuit. All of the alleged statements and actions made by the defendants arose out of the practice of their religious beliefs. Both the Louisiana and United States Constitutions guarantee the defendants the right to practice their religious beliefs without interference by the judicial branch. Specifically, all of the statements allegedly made by the defendants relate to the ecclesiastical inquiry into the fitness of Marvin Gorman to continue as minister of the First Assembly of God Church. Louisiana courts have refused to decide issues

which have any bearing on a church's ecclesiastical decision to remove a priest, preacher or minister.

II. Declinatory Exception of Improper Venue

The petition is vague as to the alleged location of the defendants when certain allegedly defamatory remarks were made. Apparently, some remarks allegedly were made in Baton Rouge. Other statements may have been made at other locations. None have been alleged to have occurred in Orleans Parish. Defendants therefore object to the venue of this action in Orleans Parish.

III. Dilatory Exception of Improper Cumulation of Actions

Louisiana Code of Civil Procedure Article 463 requires the separation of the counts since there is no "community of interest" between the parties joined. There is no community of interest in this case because the allegations in Counts I, II, III, IV and V of the petition are totally separate and unrelated allegations.

In addition, Article 465 of the Louisiana Code of Civil Procedure provides that a court may separate the trials of cumulated actions if it would simplify proceedings, would permit a more orderly disposition of the case or would otherwise be in the interest of justice. Plaintiffs have alleged five different counts of defamation. Each count of defamation involves different witnesses, different defendants and different statements. Both defendants aver that they will be prejudiced by trying all five counts together. The trying of the five counts together will totally confuse the jury since none of the defendants participated in all of the alleged defamatory remarks and each

count is actually a separate and distinct case of alleged defamation.

IV. Dilatory Exception of Improper Joinder of Parties

Article 463 of the Louisian Code of Civil Procedure provides that there must be a "a community of interest" between the parties joined. There is no community of interest in this case because the allegations in Counts I, II, III, IV and V of the petition are totally separate and unrelated allegations.

In addition, Article 465 of the Louisiana Code of Civil Procedure provides that a court may separate the trials of cumulated actions if it would simplify proceedings, would permit a more orderly disposition of the case or would otherwise be in the interest of justice. Plaintiffs have alleged five different counts of defamation. Each count of defamation involves different witnesses, different defendants and different statements. Both defendants aver that they will be prejudiced by trying all five counts together. The trying of the five counts together will totally confuse the jury since none of the defendants participated in all of the alleged defamatory remarks and each count is actually a separate and distinct case of alleged defamation.

V. Dilatory Exception of Prematurity

The rules and regulations of the First Assembly of God and/or the National Assembly of Evangelicals may be shown to contain certain provisions for resolution by church or NAE tribunal of all disputes by ministers and officers against the church or against each other. Thus, plaintiffs would have no right to litigate any dispute with

defendants Indest and Lakeview if all such disputes must be referred to a tribunal, which would make this lawsuit premature.

VI. Peremptory Exception of No Cause of Action

From the facts stated in the petition, Marvin Gorman Ministries, Inc. has not alleged a cause of action. None of the alleged defamatory statements that were made were directed to Marvin Gorman Ministries, Inc. The mere fact that Marvin Gorman may be employed by Marvin Ministries, Inc. is not sufficient to allege a cause of action of defamation against the corporation. Additionally, Louisiana law does not acknowledge any cause of action for tortious intereference of contracts, thus the claims by Marvin Gorman Ministries Inc. fail to state a cause of action against defendants.

Furthermore, all of the statements made by all of the defendants are privileged under Louisiana law, for that reason, plaintiffs have not stated a cause of action.

Furthermore, all statements made by defendants were made in the course of ecclesiastical inquiries as to which there is no valid cause of action under Louisiana law and the Louisiana and Federal Constitutions.

In addition, plaintiffs have clearly failed to state a cause of action against Michael Indest and Lakeview Christian Center in Count II of the petition. The alleged defamatory statement which is the basis for Count II was not alleged to have been made by Michael Indest.

Finally, all disputes between plaintiffs and defendants Indest and Lakeview must be referred to resolution by Church or NAE related tribunal and not by civil litigation.

VII. Peremptory Exception of No Right of Action

Marvin Gorman Ministries, Inc. has no right to bring an action for defamation. None of the statements allegedly made by any of the defendants were allegedly directed to Marvin Gorman Ministries, Inc.

Additionally, all disputes between plaintiffs and defendants Indest and Lakeview must be referred to resolution by church related tribunal and not by civil litigation.

WHEREFORE, exceptors, Michael Indest and Lakeview Christian Center, play that these exceptions be maintained and that plaintiffs' petition be dismissed, all at their costs.

STONE, PIGMAN,
WALTHER WITTMANN
& HUTCHINSON

By: /s/ Phillip A. Wittmann
PHILLIP A. WITTMANN
546 Carondelet Street
New Orleans, LA 70130
(504) 581-3200
Co-Attorneys for Michael
Indest and Lakeview
Christian Center

CHAFFE, McCALL,
PHILLIPS, TOLER
& SARPY

By: /s/Peter A. Feringa, Jr.
PETER A. FERINGA, JR.
J. FRANCOIS ALLAIN
JOHN F. OLINDE
1500 First N.B.C. Building
New Orleans, LA 70112-1790
Telephone: (504) 568-1320
Attorneys for Michael
Indest and Lakeview
Christian Center

CERTIFICATE

I hereby certify that I have on this 28th day of April, 1987, served a copy of the foregoing pleading on counsel for all parties to this proceeding by placing a copy of the same in the United States mail, properly addressed, first class postage prepaid.

/s/ Peter A. Feringa, Jr.

CIVIL DISTRICT COURT
FOR THE PARISH OF ORLEANS
STATE OF LOUISIANA
DIVISION "K"

NO. 87-5289 DOCKET:

MARVIN GORMAN, ET AL

VERSUS

JIMMY SWAGGART, ET AL

FILED: _____ _____

DEPUTY CLERK

EXCEPTIONS ON BEHALF OF G. RAYMOND CARLSON AND THE GENERAL COUNCIL OF THE ASSEMBLIES OF GOD

NOW INTO COURT, through undersigned counsel, come defendants, The General Council of the Assemblies of God and G. Raymond Carlson, who individually is reserving the benefit of any and all other exceptions on his behalf, appearing solely for the purpose of asserting the following exceptions:

I. LACK OF SUBJECT MATTER JURISDICTION

The court does not have jurisdiction over the subject matter of the cause asserted against these defendants. Any alleged statement or action by either defendant arose out of the practice of religious beliefs which are constitutionally protected without interference by the judicial branch. Any statements or actions allegedly made or taken by these defendants relate to ecclesiastical inquiry into the fitness of plaintiff to continue as a minister.

II. IMPROPER VENUE

The petition is vague as to the location of either any statements of a defamatory nature or any defamatory

actions that allegedly have been made or taken by these defendants.

III. IMPROPER CUMULATION OF ACTIONS

There does not exist a community of interest among the parties joined and consequently Article 463, Louisiana Code of Civil Procedure, requires separation of same. Five different counts of defamation have been alleged, occurring at different times and places and involving different witnesses and different defendants. Cumulating these separate actions would cause confusion among members of the jury.

IV. IMPROPER JOINDER OF PARTIES

An examination of the five counts of the petition reveals that there is no community of interest, as required by Article 463 of the Louisiana Code of Civil Procedure, amongst the parties joined. Because five separate alleged causes of action have been joined involving different witnesses, defendants and statements and/or actions allegedly attributed to these defendants, these cases should be separated.

V. PREMATURITY

Administrative procedures apply for resolution by the church of all disputes amongst ministers and officers of the church. Absent a showing of compliance with administrative procedures, plaintiffs have no right to litigate an internal dispute.

VI. PLAINTIFF'S PETITION IS UNDULY VAGUE AND AMBIGUOUS

WHEREFORE, exceptors pray that their exceptions be maintained and that plaintiffs' petition be dismissed at their costs and further pray for all general and equitable relief.

Respectfully submitted,

/s/ Mark N. Mallery
JOHN J. WEIGEL
Jones, Walker, Waechter,
Poitevent, Carrere & Denegre
201 St. Charles Avenue
New Orleans, LA 70170
(504) 582-8128

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 7th day of May, 1987, served a copy of the foregoing pleading on counsel for all parties to this proceeding, by mailing the same by United States mail, properly addressed, and first class postage prepaid.

/s/ Mark N. Mallery

CIVIL DISTRICT COURT
FOR THE PARISH OF ORLEANS
STATE OF LOUISIANA
DIVISION "K"

NO. 87-5289 DOCKET 4

MARVIN GORMAN AND
MARVIN GORMAN MINISTRIES, INC.

VERSUS

JIMMY SWAGGART, ET AL

FILED: _____ _____
DEPUTY CLERK

PETITION FOR DEVOLUTIVE APPEAL

(Filed August 11, 1987)

The Petition of MARVIN GORMAN and MARVIN GORMAN MINISTRIES, INC., plaintiffs in the above numbered and entitled action, respectfully represents:

1.

Petitioners, MARVIN GORMAN AND MARVIN GORMAN MINISTRIES, INC., desire to appeal devolutively from the final judgment of this court rendered and signed in the above cause on the 8th day of June, 1987.

WHEREFORE, Petitioners PRAY that they be granted devolutive appeal in the above numbered and entitled cause, returnable in the Court of Appeals, Fourth Circuit, Parish of Orleans, State of Louisiana, within the delays fixed by law, conditioned as the law directs.

Respectfully submitted,

LUNDY & DWIGHT

By: /s/ Hunter W. Lundy
HUNTER W. LUNDY
P.O. Box 3009
Lake Charles, LA 70602
(318) 439-0707

TOMMY DEE FRASIER
FRASIER & FRASIER
1700 S. W. Boulevard
Tulsa, Oklahoma 74101
(918) 584-4724

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing has been forwarded to all counsel of record by depositing a copy of the same in the United States mail, postage prepaid and properly addressed.

Lake Charles, Louisiana, this 10th day of August, 1987.

/s/ Hunter W. Lundy
HUNTER W. LUNDY

CIVIL DISTRICT COURT
FOR THE PARISH OF ORLEANS
STATE OF LOUISIANA
DIVISION "K"

NO. 87-5289 DOCKET 4

MARVIN GORMAN AND
MARVIN GORMAN MINISTRIES, INC.

VERSUS

JIMMY SWAGGART, ET AL

FILED: _____ _____
DEPUTY CLERK

ORDER

Considering the foregoing Petition for Devolutive Appeal:

IT IS HEREBY ORDERED that after said judgment, petitioners be granted devolutive appeal in the above numbered and entitled cause, returnable in the Court of Appeals, Fourth Circuit, Parish of Orleans, State of Louisiana, within the delays fixed by law, conditioned as the law directs.

THUS DONE AND SIGNED this — day of —, 1987, at — Louisiana.

DISTRICT JUDGE

CIVIL DISTRICT COURT FOR
THE PARISH OF ORLEANS
STATE OF LOUISIANA

NO. 87-5289 DIVISION "K" DOCKET 4

MARVIN GORMAN AND
MARVIN GORMAN MINISTRIES, INC.

VERSUS

JIMMY SWAGGART, ET AL

FILED: _____ _____
DEPUTY CLERK

PETITION FOR DEVOLUTIVE APPEAL

(Filed September 15, 1987)

The Petition of MARVIN GORMAN, plaintiff in the above numbered and entitled action, respectfully represents:

1.

Petitioner, MARVIN GORMAN, desires to appeal devolutively from the final judgment of this court rendered and signed in the above cause on the 31st day of August, 1987.

WHEREFORE, Petitioner PRAYS that he be granted a devolutive appeal in the above numbered and entitled cause, returnable in the Court of Appeals, Fourth Circuit,

Parish of Orleans, State of Louisiana, within the delays fixed by law, conditioned as the law directs.

Respectfully submitted,

LUNDY & DWIGHT

By: /s/ Hunter W. Lundy
HUNTER W. LUNDY
P. O. Box 3009
Lake Charles, LA 70602
(318) 439-0707

TOMMY DEE FRASIER
FRASIER & FRASIER
1700 S. W. Boulevard
Tulsa, Oklahoma 74101
(918) 584-4724

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing has been forwarded to all counsel of record by depositing a copy of the same in the United States mail, postage prepaid and properly addressed.

Lake Charles, Louisiana, this 8th day of September, 1987.

/s/ Hunter W. Lundy
HUNTER W. LUNDY

CIVIL DISTRICT COURT FOR
THE PARISH OF ORLEANS
STATE OF LOUISIANA

NO. 87-5289 DIVISION "K" DOCKET 4

MARVIN GORMAN AND
MARVIN GORMAN MINISTRIES, INC.

VERSUS

JIMMY SWAGGART, ET AL

FILED: ———— ————————
DEPUTY CLERK

ORDER

Considering the foregoing Petition for Devolutive Appeal;

IT IS HEREBY ORDERED that after said judgment, petitioners be granted devolutive appeal in the above numbered and entitled cause, returnable in the Court of Appeals, Fourth Circuit, Parish of Orleans, State of Louisiana, within the delays fixed by law, conditioned as the law directs.

THUS DONE AND SIGNED this — day of ————, 1987, at ————, Louisiana.

————————
DISTRICT JUDGE

COURT OF APPEAL
FOURTH CIRCUIT
STATE OF LOUISIANA

NO. CA-8757

MARVIN GORMAN AND
MARVIN GORMAN MINISTRIES, INC.

Plaintiffs-Appellants

VERSUS

JIMMY SWAGGART, JIMMY SWAGGART MINISTRIES, INC., WILLIAM D. TREEBY, THE FIRST ASSEMBLY OF GOD CHURCH OF NEW ORLEANS, LOUISIANA, INC., LOUISIANA DISTRICT COUNCIL OF THE ASSEMBLIES OF GOD, INC., THE GENERAL COUNSEL OF THE ASSEMBLIES OF GOD, LAKEVIEW CHRISTIAN CENTER, CANAL ST. ASSEMBLY OF GOD, INC., MICHAEL INDEST, TOM MILLER, CECIL JANWAY, WALDO RISNER, ALLAN MCDONNEL and DON BRANKEL

Defendants-Appellees

APPLICATION FOR REHEARING AND REHEARING *EN BANC* SUBMITTED ON BEHALF OF JIMMY SWAGGART, JIMMY SWAGGART MINISTRIES, INC., and WILLIAM D. TREEBY

Defendants-Appellees

Pursuant to Article 2166 of the Louisiana Code of Civil Procedure, defendants, Jimmy Swaggart, Jimmy Swaggart Ministries, Inc., and William D. Treeby, apply for rehearing and rehearing *en banc* of the judgment entered by this Court on April 22, 1988 for the reasons stated below and in the attached Brief:

1.

In the April 22, 1988 Opinion, this Court held *inter alia,* that Louisiana civil courts have jurisdiction over this matter. This holding is based, in part, on the finding that the defendants purportedly made allegedly defamatory statements against Marvin Gorman outside of the church and, "to that extent have exposed themselves to the jurisdiction of the civil courts." Opinion, p. 13-14. The Court rejected the Assemblies of God's definition of the "universal church" which defines the church to include all Christians. *Id.* at 14. Because this rejection of the doctrine of the Assemblies of God oversteps the boundaries of the First Amendment, this Court should grant a rehearing and rehearing *en banc* to review this decision.

2.

This Court's April 22, 1988 judgment is also in conflict with this Court's earlier ruling in *McManus v. Taylor,* 521 So.2d 449 (La. App. 4th Cir. 1988) (amended March 1, 1988). In that decision, this Court dismissed a suit for damages brought by a former minister of a church against the church organization and officials based on alleged defamation and other causes of action. This Court sustained the dismissal of the suit for lack of subject matter jurisdiction. Because the decision in *McManus* is in direct conflict with the decision rendered by this Court in the above-captioned matter, rehearing and rehearing *en banc* should be granted to resolve this conflict within the circuit.

3.

Defendants also seek rehearing of this Court's April 22, 1988 decision that Marvin Gorman Ministries

("MGM") has stated a cause of action in his case. This decision was based in part on the finding that "it was possible for MGM to be defamed by statements about Gorman even if MGM is not mentioned by name in those statements." Opinion, p. 7. This holding is in conflict with the general rule of law in Louisiana and the precedent of this Court which establishes that an action for defamation is personal to the one defamed. Defendants request a rehearing and rehearing *en banc* to review this conflict.

WHEREFORE, defendants, Jimmy Swaggart, Jimmy Swaggart Ministries, Inc. and William D. Treeby pray that this Court grant a rehearing and a rehearing *en banc* of the judgment entered in the above-captioned matter on April 22, 1988.

Respectfully submitted,

/s/ Denise M. Pilie'
Phillip A. Wittmann
Wayne J. Lee
Denise M. Pilie'
of
STONE, PIGMAN, WALTHER,
WITTMANN & HUTCHINSON
546 Carondelet Street
New Orleans, Louisiana 70130
Telephone: (504) 581-3200
Attorneys for Jimmy Swaggart,
Jimmy Swaggart Ministries, Inc.
and William D. Treeby

CERTIFICATE

I hereby certify that a copy of the foregoing Application for Rehearing and Rehearing *En Banc* Submitted on Behalf of Jimmy Swaggart, Jimmy Swaggart Ministries, Inc. and William D. Treeby and Order have been served upon all counsel of record, via the United States mail, postage prepaid, this 6th day of May, 1988.

/s/ Denise M. Pilie'

EXH. C-1

CREDENTIAL RENEWAL FOR
ORDAINED MINISTERS 1982

For Fellowship Certificate for 1982
Avoid Expiration—Please Complete and Mail Promptly
Pastors Please Return Church Questionnaire
With This Form

DISTRICT OFFICE COPY

EXPIRATION DATE—JANUARY 31, 1982. By action of the 1981 General Council ministers who fail to renew their fellowship certificates on or before JANUARY 31 shall be considered delinquent and shall be assessed a late fee of $25. Ministers who have not renewed by FEBRUARY 15 shall be recorded as lapsed and must make application for reinstatement and pay a $50 reinstatement fee. COPIES 1 and 2 ARE TO BE MAILED TO YOUR DISTRICT OFFICE. Copy 3 may be retained for your file. After certifying, the District will forward copy 1 to the General Council Office for the issuing of your fellowship certificate.

(Filed June 9, 1987)

Rev. Marvin E. Gorman
4008 N. Turnbull Dr.
Metairie LA 70002

Please send separate checks. Amount of money enclosed with this questionnaire: For District $. Make payable to District Treasurer. For General Council $100.00. For Year 1981 [ ] For Year 1982 [ ] Make payable tc General Council Treasurer.

Please Use Typewriter or Print with Ink.

1. [x] The above address is correct. Phone Number 504 455-2372.

2. [ ] Correct my address to: ————————. Social Security Number 430-62-2704. Date of Birth November 3, 1933. Sex Male.

3. Member of what District Council? Louisiana Section New Orleans. Date Licensed 1956.

4. Marital status: Single [ ] Married [x] Widowed [ ] Name of Spouse Virginia Number of Children 3.

5. Does your spouse hold credentials with the Assemblies of God? No Ordained [ ] Licensed [ ] Christian Worker [ ].

6. Type of ministry in which you are engaged: Pastor [x] Assistant Pastor or Church Staff Member [ ] Full-time Evangelist [ ] Foreign Missionary [ ] Home Missionary [ ] Other [ ] ———————— Bible School or College Teacher [ ] Given name of school ————————.

7. How many times have you preached during the past year? State approximate number 1,000.

8. If a pastor (Name of church) First Assembly of God (Location) New Orleans, La.

9. Do you have any *other* occupation? No type? ———————— hours per week ————————.

10. Have you supported the General Council this past calendar year in accord with the bylaws? Yes [x] No [ ] $100.00. Have you supported the District Council this past calendar year in accord with the bylaws? Yes [x] No. [ ] $4,100.00. By action of the 1979 General Council, Bylaws Article XVIII, Section 1c states that compliance with the requirement of $5 per month for ordained min-

isters shall be a prerequisite for renewal of credentials of all active ministers. If their contributions are in arrears they shall be given an opportunity to meet this deficit with their renewal.

11. Are you willing to abide by the Constitution and Bylaws of the General Council and the District Council? Yes [x] No [ ].

12. Do you fully subscribe to the Statement of Fundamental Truths? (General Council Constitution Article V) Yes [x] No [ ].

13. Do you publicly proclaim these statements of Fundamental Doctrine? Yes [x] No [ ]. If your answer to question 12 or 13 is "no" please complete question 14.

14. If your present viewpoint DIFFERS from that of the General Council in any of the following areas, please check:

[ ] a. Speaking in other tongues as the initial physical evidence of the baptism in the Holy Spirit. [ ] b. Water baptism by immersion in accordance with Matthew 28:19 [ ] c. Premillenial and imminent return of our Lord Jesus Christ. [ ] d. Divine healing. [ ] e. Eternal Security [ ] f. Sanctification.

If you have deviated from General Council viewpoint in any of the above areas, or in any other area of doctrinal statement, please define your viewpoint on a separate sheet of paper.

15. If 65 years or older, indicate which category you belong. [ ] Senior, Active [ ] Senior, Semiretired [ ] Senior, Retired.

Signature /s/ Marvin E. Gorman Date 1/18/82

For District use only. District approval for renewal and/or other designation.

[√] Renew [ ] inactive (See Bylaw Art. VII, Sect. 7)
[ ] Do not renew (please attach MSR Form giving reason)
[ ] Senior, Active [ ] Senior, Semiretired [ ] Senior, Retired.

/s/ J. E. Allen Date 1/29/82

Signed by Superintendent or Secretary (Strike out one)

EXH. C-2

CREDENTIAL RENEWAL FOR ORDAINED MINISTERS 1983

For Fellowship Certificate for 1983
Avoid Expiration—Please Complete and Mail Promptly to District Office Copy

EXPIRATION DATE—JANUARY 31, 1983. By action of the 1981 General Council ministers who fail to renew their fellowship certificates on or before JANUARY 31 shall be considered delinquent and shall be assessed a late fee of $25. Ministers who have not renewed by FEBRUARY 15 shall be recorded as lapsed and must make application for reinstatement and pay a $50 reinstatement fee. COPIES 1 AND 2 ARE TO BE MAILED TO YOUR DISTRICT OFFICE. Copy 3 may be retained for your file. After certifying, the District will forward copy 1 to the General Council Office for the issuing of your fellowship certificate.

(Filed June 9, 1987)
208455 24 II
REV. MARVIN E. GORMAN
4008 N. Turnbull Dr.
Metairie, LA 70002

PLEASE SEND SEPARATE CHECKS

Amount of money enclosed with this questionnaire:

For District $———
Make payable to District Treasurer

For General Council $100.00
For Year 1982 [ ]
For Year 1983 [ ]

Make payable to General Council Treasurer

Please Use Typewriter or Print with ink.

1. [x] The above address is correct. Phone Number 504/888/9864.

2. [ ] Correct my address to: ———— Social Security Number 430-62-2704. Date of Birth November 3, 1933. Sex Male.

3. Member of what District Council? Louisiana. Section New Orleans. Date Licensed 1956.

4. Marital status: Single [ ] Married [x] Widowed [ ] Name of Spouse Virginia. Number of Children 3.

5. Does your spouse hold credentials with the Assemblies of God? No. Ordained [ ] Licensed [ ] Christian Worker [ ].

6. Type of ministry in which you are engaged: Pastor [x] Assistant Pastor or Church Staff Member [ ] Full-time Evangelist [ ] Foreign Missionary [ ] Home Missionary [ ] Other [ ] ———— Bible School or College Teacher [ ] Given name of school ————.

7. How many times have you preached during the past year? State approximate number ————————.

8. If a pastor (Name of church) First Assembly of God (Location) New Orleans, LA.

9. Do you have any *other* occupation? NO type? ____ hours per week ————————.

10. Have you supported the General Council this past calendar year in accord with the bylaws? Yes [x] No [ ] $100.00. Have you supported the District Council this past calendar year in accord with the bylaws? Yes [x] No [ ] $4,450.00. By action of the 1979 General Council, Bylaws Article XVIII, Section 1c states that compliance with the requirement of $5 per month for ordained ministers shall be a prerequisite for renewal of credentials of all active ministers. If their contributions are in arrears they shall be given an opportunity to meet this deficit with their renewal.

11. Are you willing to abide by the Constitution and Bylaws of the General Council and the District Council? Yes [x] No [ ].

12. Do you fully subscribe to the Statement of Fundamental Truths? (General Council Constitution Article V) Yes [x] No [ ].

13. Do you publicly proclaim these statements of Fundamental Doctrine? Yes [x] No [ ]. If your answer to question 12 or 13 is "no" please complete question 14.

14. If your present viewpoint DIFFERS from that of the General Council in any of the following areas, please check:

[ ] a. Speaking in other tongues as the initial physical evidence of the baptism in the Holy Spirit. [ ] b. Water baptism by immersion in accordance wth Matthew 28:19 [ ] c. Premillenial and imminent return of our Lord Jesus Christ. [ ] d. Divine healing [ ] e. Eternal Security [ ] f. Sanctification.

If you have deviated from General Council viewpoint in any of the above areas, or in any other area of doctrinal statement, please define your viewpoint on a separate sheet of paper.

15. If 65 years or older, indicate which category you belong. [ ] Senior, Active [ ] Senior, Semiretired [ ]Senior, Retired.

Signature /s/ Marvin E. Gorman Date 1/5/83

For District use only. District approval for renewal and/or other designation.

[x] Renew [ ] Inactive (See Bylaw Art. VII, Sect. 7) [ ] Do not renew (please attach MSR Form giving reason).

[ ] Senior, Active [ ] Senior, Semiretired [ ] Senior, Retired.

/s/ Forrest H. Hall Date 1/20/83
Signed by Secretary (strike out one)

EXH. C-3

CREDENTIAL RENEWAL FOR ORDAINED MINISTERS

For Fellowship Certificate for 1984
DISTRICT OFFICE COPY

Avoid Expiration—Please Complete and Mail Promptly
(Filed June 9, 1987)

EXPIRATION DATE—JANUARY 31, 1984. By action of the 1981 General ministers who fail to renew their fellowship certificates on or before JANUARY 31 shall be considered delinquent and shall be assessed a late fee of $25. Ministers who have not renewed by FEBRUARY 15 shall be recorded as lapsed and must make application for reinstatement and pay a $50 reinstatement fee. COPIES 1 AND 2 ARE TO BE MAILED TO YOUR DISTRICT OFFICE. Copy 3 may be retained for your file. After certifying, the District will forward copy 1 to the General Council Office for the issuing of your fellowship certificate. PLEASE SEND SEPARATE CHECKS

FOR DISTRICT $——
Make payable to District Treasurer
FOR GENERAL COUNCIL $100.00
Make payable to General Council Treasurer

PLEASE USE TYPEWRITER OR PRINT WITH INK. INFORMATION PREPRINTED FROM THE FILES OF THE GENERAL SECRETARY.

DATE OF BIRTH ——— SEX — DISTRICT ———
MARITAL STATUS ———
PHONE ——— DATE LICENSED ———
SOCIAL SECURITY ——— SPOUSE ———
TYPE OF MINISTRY ———
IF PASTOR, NAME OF CHURCH ———
LOCATION ———

DO NOT COMPLETE THIS AREA IF ABOVE INFORMATION IS CORRECT. THIS BLOCK FOR CORRECTIONS ONLY.

ADDRESS ———
CITY ——— STATE ——— ZIP
CODE ——— DATE OF BIRTH ———
SEX ——— DISTRICT ——— MARITAL
STATUS ——— PHONE ——— DATE
——— SOCIAL SECURITY NO. ———
SPOUSE ——— TYPE OF MINISTRY
——— IF PASTOR, NAME OF CHURCH
——— LOCATION ———

1. Does your spouse hold credentials? No If so, mark one. ORD. [ ] LIC. [ ] SPEC. LIC. [ ] C.W. [ ]

2. Number of children? (3).

3. How many times have you preached during the past year? State approximate number 1,000.

4. Do you have any *other* occupation? No Type? ——— Hours per week? ———

5. Member of what section? LOUISIANA.

6. Have you supported the General Council this past calendar year in accord with the bylaws? Yes [x] No [ ] $100.00.

7. Have you supported the District Council this past calendar year in accord with the bylaws? Yes [x] No [ ] $4,050.00. By action of the 1979 General Council, Bylaws Article XVIII, Section 1c states that compliance with the requirement of $5 per month for licensed ministers shall be a prerequisite for renewal of credentials of all active ministers. If their contributions are in arrears they shall be given an opportunity to meet this deficit with their renewal.

8. Are you willing to abide by the Constitution and Bylaws of the General Council and the District Council? Yes [x] No [ ].

9. Do you fully subscribe to the Statement of Fundamental Truths? (General Council Constitution Article V) Yes [x] No [ ].

10. Do you publically proclaim these statements of Fundamental Doctrine? Yes [x] No [ ]. If your answer to question 9 or 10 is "no" please complete question 11.

11. If your present viewpoint DIFFERS from that of the General Council in any of the following areas, please check:

[ ] a. Speaking in other tongues as the initial physical evidence of the baptism in the Holy Spirit. [ ] b. Water baptism by immersion in accordance with Matthew 28:19. [ ] c. Premillennial and imminent return of our Lord Jesus Christ. [ ] d. Divine healing [ ] e. Eternal Security [ ] f. Sanctification.

If you have deviated from General Council viewpont in any of the above areas, or in any other area of doctrinal statement, please define your viewpoint of a separate sheet of paper.

12. If 65 years or older, indicate which category you belong. [ ] Senior, Active [ ] Senior, Semiretired [ ] Senior, Retired.

Signature /s/ Marvin E. Gorman Date 1/24/84.

For District use only District approval for renewal and/or other designation

[ ] Renew [ ] Inactive (See Bylaw Art. VII, Sect. 7) [ ] Do not renew (please attach MSR Form giving reason) [ ] Senior, Active [ ] Senior, Semiretired [ ] Senior, Retired [ ] Disabled.

/s/ Illegible — — — — Date Illegible

Signed by Superintendent or Secretary (strike out one)

EXH. C-5

CREDENTIAL RENEWAL FOR ORDAINED MINISTERS

For Fellowship Certificate for 1986
DISTRICT OFFICE COPY

Avoid Expiration—Please Complete and Mail Promptly

(Filed June 9, 1987)

EXPIRATION DATE—JANUARY 31, 1986. By action of the 1981 General Council ministers who fail to renew their fellowship certificates on or before JANUARY 31 shall be considered delinquent and shall be assessed a late fee of $25. Ministers who have not renewed by FEBRUARY 15 shall be recorded as lapsed and must make application for reinstatement and pay a $50 reinstatement fee. COPIES 1 AND 2 ARE TO BE MAILED TO YOUR DISTRICT OFFICE. Copy 3 may be retained for your file. After certifying, the District will forward copy 1 to the General Council Office for the issuing of your fellowship certificate.

PLEASE SEND SEPARATE CHECKS

FOR DISTRICT $——
Make payable to District Treasurer

FOR GENERAL COUNCIL $100.00
Make payable to General Council Treasurer

PLEASE USE TYPEWRITER OR PRINT WITH INK. INFORMATION PREPRINTED FROM THE FILES OF THE GENERAL SECRETARY'S OFFICE.

DATE OF BIRTH —— SEX —— DISTRICT ——
MARITAL STATUS ——————
PHONE ———— DATE LICENSED ————
SOCIAL SECURITY ———— SPOUSE ————
TYPE OF MINISTRY ———— IF PASTOR, ———
NAME OF CHURCH ——————————
LOCATION ——————————

DO NOT COMPLETE THIS AREA IF ABOVE INFORMATION IS CORRECT. THIS BLOCK FOR CORRECTIONS ONLY.

ADDRESS ———————————————————
CITY ———————— STATE ———— ZIP CODE ———— DATE OF BIRTH ————————
SEX ———— DISTRICT ———————— MARITAL STATUS ———— PHONE ———————— DATE LIC. ———————— SOCIAL SECURITY NO. ————————
SPOUSE ———————— TYPE OF MINISTRY ———————— IF PASTOR, NAME OF CHURCH ———————— LOCATION ——
———————————————————.

1. Does your spouse hold credentials? No. If so, mark one. ORD. [ ] LIC. [ ] SPEC. LIC. [ ].

2. Number of children? 3.

3. How many times have you preached during the past year? State approximate number 1000.

4. Are you secularly employed? No. Where? ——— Hours per week? ————————.

5. Member of what section? Louisiana.

6. Have you supported the General Council this past calendar year in accord with the bylaws? Yes [x] No [ ] $100.00.

7. Have you supported the Distrit Council this past calendar year in accord with the bylaws? Yes [x] No [ ] $ ————————. By action of the 1979 General Council, Bylaws Article XVIII, Section 1c states that compliance with the requirement of $5 per month for ordained ministers shall be a prerequisite for renewal of credentials of

all active ministers. If their contributions are in arrears they shall be given an opportunity to meet this deficit with their renewal.

8. Are you willing to abide by the Constitution and Bylaws of the General Council and the District Council? Yes [x] No [ ].

9. Do you fully subscribe to the Statement of Fundamental Truths? (General Council Constitution Article V) Yes [x] No [ ].

10. Do you publicly proclaim these statements of Fundamental Doctrine? Yes [x] No [ ]. If your answer to question 9 or 10 is "no" please complete question 11.

11. If your present viewpoint DIFFERS from that of the General Council in any of the following areas, please check:

[ ] a. Speaking in other tongues as the initial physical evidence of the baptism in the Holy Spirit. [ ] b. Water baptism by immersion in accordance with Matthew 28:19 [ ] c. Premillennial and imminent return of our Lord Jesus Christ [ ] d. Divine healing [ ] e. Eternal Security [ ] f. Sanctification.

If you have deviated from General Council viewpoint in any of the above areas, or in any other area of doctrinal statement, please define your viewpoint on a separate sheet of paper.

12. If 65 years or older, indicate your category. [ ] Senior, Active [ ] Senior, Semiretired [ ] Senior, Retired.

Signature /s/ Marvin E. Gorman Date 1/13/86

For District use only District approval for renewal and/or other designation

[✓] Renew [ ]Inactive (See Bylaw Art. VII, Sect. 7)
[ ] Do not renew (please attach MSR Form giving reason)
[ ] Senior, Active [ ] Senior, Semiretired [ ] Senior, Retired [ ] Disabled.

/s/ Forrest H. Hall Date 1/21/86
Signed by Secretary (strike out one)

GENERAL COUNCIL
ASSEMBLIES OF GOD

August 13, 1985

BYLAWS

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ARTICLE IX. DISCIPLINE

A. District Action

Section 1. The Nature and Purposes of Discipline

Discipline is an exercise of scriptural authority for which the church is responsible. The aims of discipline are that God may be honored, that the purity and welfare of the ministry may be maintained, and that those under discipline may be brought to repentance and restoration.

Discipline is to be administered for the restoration of the minister, while fully providing for the protection of the spiritual welfare of our local assemblies. It is to be redemptive in nature as well as corrective and is to be exercised as under a dispensation of mercy.

Section 2. Causes of Disciplinary Action

Violation of Assemblies of God principles as stated in these Constitution and Bylaws may give cause for disciplinary action by the Credentials Committee. Among such causes for action shall be:

a. Any conduct unbecoming to a minister or indiscretion involving morals.

b. General inefficiency in the ministry.

c. A failure or inability to represent our Pentecostal testimony correctly.

d. A contentious or noncooperative spirit.

e. An assumption of dictatorial authority over an assembly.

f. An arbitrary rejection of district counsel.

g. A declared open change in doctrinal views.

h. A habit of running into debt which brings reproach upon the cause.

i. A marriage in violation of our stand on marriage and divorce. (See Article VIII, B, Section 5, paragraphs d and e.)

j. Violations of ministerial courtesy. (See Article VIII, B, Section 8.)

k. Ministry without prior approval in a non-Assemblies church. (See Article VII, B, Section 9.)

l. An improper attiude toward those dismissed from the Fellowship. (See Article VIII, B, Section 10.)

Section 3. Initiative

a. Authority. Occasions sometimes arise which make it necessary to deal with ministers who for some reason seem to have reached the place where, in the opinion of the brethren, endorsement can no longer be given. Credentials committees which have the authority to ordain ministers and to recommend them for credentials also have the right to withdraw their approval and to recommend the recall of credentials.

b. Prior right of district. The officiary of the district in which the alleged offense is reported to have occurred shall be recognized as having the prior right of

initiative in matters of discipline. Reports of complaints against a minister, alleging violations of Assemblies of God principles (Article IV, A, Section 2), filed with the Credentials Committee of The General Council of the Assemblies of God, shall be referred to the district in which the offense occurred for investigation and such action as the revealed facts may warrant. A copy shall be sent to the minister's home district.

c. Responsibility of home district. If the district in which an alleged offense is reported to have occurred for some reason cannot take action, the Credentials Committee of The General Council of the Assemblies of God shall refer the matter, together with the facts and supporting instruments, to the district with which the minister is affiliated.

d. Responsibility of General Credentials Committee. In the event the district fails to take action within 90 days after a matter has been referred to it, it shall be the responsibility of the Credentials Committee of The General Council of the Assemblies of God to see that action is initiated.

Section 4. Investigation of Reports or Complaints of Alleged Violations of Assemblies of God Principles

a. Within United States. When a report or complaint of alleged violations by a minister is received, the superintendent of the district in which the alleged offense is reported to have occurred, and/or an appointed representative, shall make an investigation, having in mind that it is his responsibility to safeguard the church, the

minister, the district, and the Fellowship. This shall be done to determine the source of the report or complaint.

(1) *Interview with complainant(s).* The persons involved shall be interviewed in order to ascertain the facts in the case and the reasons underlying the persistence of the reports or complaints.

(2) *Interview with accused minister(s).* The accused minister(s) shall be given an opportunity to be interviewed to discuss with him/her the complaints received against him/her in the hope that the matter can be resolved.

(3) *Signed complaints.* In the event the investigation so warrants, signed complaints shall be filed with the district office by the complainant(s) describing the alleged violations.

(4) *Suspension for extended investigation or minor violations.* If the time required for the investigation exceeds 3 months and additional time is required to determine the validity of the complaints or charges, a minister may be placed under suspension for a period not to exceed 3 months in order to complete the investigation. This provision may also be applied for some minor infraction not meriting rehabilitation or dismissal, and which can be resolved within the above time frame, subject to renewal if deemed necessary.

b. Outside United States. In case the alleged misconduct occurs outside the United States in an area under the general oversight of the Division of Foreign Missions, that division shall take the initiative to place complete data in the hands of the home district of the minister involved. Any hearing or trial affecting that individual's ministerial credentials shall be held in the home district. The Division of Foreign Missions shall convey all information available to the home district in the following manner.

(1) *Report to home district.* At the earliest date after the Division of Foreign Missions receives a report of misconduct, such report shall be conveyed by telephone and by letter to the superintendent of the home district of the minister or missionary, with a copy to the district missionary secretary.

(2) *Confidential file.* A confidential file shall be submitted to the superintendent, conveying to him all information as it becomes available to the division. A final complete file shall be prepared under the direction of the field director of the field involved and shall be presented to the district superintendent for his use in any action the district may take.

(3) *Additional information.* When in the judgment of the Division of Foreign Missions or the district involved, basic information is lacking (which information may be available at the site of the alleged misconduct), arrangements may be made for the gathering of such.

Section 5. Preparation and Filing of Charges

If after due investigation it is determined that charges should be made, proper charges shall be prepared and filed in the district office. If no one appears to sign the charges, members of the district officiary making the investigation may prefer charges based on the evidence in their possession. The person against whom charges have been filed shall be informed in writing by certified mail of the charges made in keeping with Article IX, Section 2.

Section 6. District Hearing and Discipline

In the event the reports or complaints cannot be dealt with privately to the satisfaction of all concerned, the su-

perintendent of the district in which the alleged offense is said to have occurred, or the superintendent of the district with which the minister is affiliated, shall arrange for a hearing by the district credentials committee for the accused minister. The minister shall be requested to appear at the hearing in the hope the matter can be resolved.

A hearing shall not be considered as final disposition of the case until the accused be present and be allowed all rights and privileges granted herein; provided, however, an accused member may be disciplined and found guilty of charges preferred, if he refused to appear at the hearing, or proof is found of willful neglect on his part to take advantage of his rights and privileges.

If the district determines that guilt has been established, discipline shall be administered prayerfully and in the fear of God, in accordance with the Scriptures, and as set forth in the Constitution and Bylaws of this ecclesiastical body.

Section 7. Credentials Terminations

In all cases the minister shall be requested to surrender his Certificate of Ordination and his current fellowship card to the district office. The district shall forward these to the office of the general secretary of The General Council of the Assemblies of God. Refusal to surrender his Certificate of Ordination and current fellowship card shall be considered insubordination and may result in placing a charge against the minister. Credentials terminations may occur in the following manner:

a. On the initiative of the minister.

(1) *Lapsed.* A minister who does not elect to renew his credentials, providing there is no cause for

disciplinary action, shall be listed as having "lapsed." His name shall be published as "lapsed" in the Assemblies of God Minister, hereinafter referred to as the ministers letter.

(2) *Resigned.* A minister who has elected to remove himself from the Fellowship, and against whom there are no charges filed, shall be published in the ministers letter as "resigned." In the event of the announced desire of a minister to resign from our Fellowship, before action shall have been taken in the matter either by the district or the Credentials Committee of The General Council of the Assemblies of God, due investigation shall be made as to the standing of the minister in the district of his affiliation. His request shall be granted, provided he is found in good standing. In case the evidence warrants contrary action, the minister shall be advised of the findings, and appropriate disciplinary action shall be taken. All information pertaining to the disciplinary action taken against the minister shall be preserved for future reference in the office of the Credentials Committee of The General Council of the Assemblies of God.

b. On the initiative of the district. (See Article IX, A, Section 3.)

(1) *Dismissed.* A minister who has been found guilty of violating any of the Assemblies of God principles set forth in Article IX,A, Section 2, shall be subject to disciplinary action by the Credentials Committee. Said discipline shall be administered in brotherly love and kindness in an effort to lead the offending minister through a program of rehabilitation (Article IX, A, Section 9). The Credentials Committees shall weigh decisions on the basis of the offense itself, the attitude of the offending minister toward the discipline, the manner and thoroughness of his repentance, the desire he manifests to cooperate, and the possibility of success in his rehabilitation. In the event rehabilitation is not feasible or fails, the min-

ister shall be listed as having been dismissed. His name shall be published as dismissed in the ministers letter.

(22) *Inactive.* When a minister becomes inactive for 2 consecutive years, according to the stipulations set forth in Article VII, Section 7, paragraph b, of the bylaws, his name shall be published as inactive in the ministers letter.

(3) *Not renewed.* If in the opinion of the Credentials Committees a minister's credentials should not be renewed short of disciplinary action, his name shall be published as not renewed in the ministers letter.

(4) *Publication only after notification.* No publication of disciplinary action shall be made until the district has been advised by the office of the general secretary that such has been authorized by the Credentials Committee of The General Council of the Assemblies of God.

c. As a result of affiliation with other church organizations. In the event a minister shall identify himself with another organization granting ministerial credentials, and shall have received such credentials, he shall then be requested by the district to surrender his Certificate of Ordination and his current fellowship card to the district office. The district shall forward these to the office of the general secretary of The General Council of the Assemblies of God. As investigation shall be made to determine the proper category of termination.

Section 8. Referral for Action to the Credentials Committee of The General Council of the Assemblies of God

a. District recommendation. If it is determined that a minister's credentials are to be terminated, the district

shall recommend to the Credentials Committee of The General Council of the Assemblies of God that his name be removed from the official list of ministers in accordance with Section 7 of this article. Such recommendation shall set forth in writing satisfactory reasons for the action. Copies of these charges and recommendations shall be forwarded to the said Credentials Committee, to the minister involved, and to the superintendent of the home district.

b. General Council Credentials Committee action. The said Credentials Committee shall be authorized to comply with the request of the district if in its judgment the district was justified in the action taken. If the said Credentials Committee finds that justice has not been served, it may refer the case, together with its recommendations, back to the district for review and reconsideration. Disposition of the case shall await further report from the district.

c. Right of appeal. Thirty days from the date of the notification of the decision of the Credentials Committee of The General Council of the Assemblies of God shall be allowed for the accused to request a trial. He shall be apprised officially of this right at the time the decision of the Credentials Committee of The General Council of the Assemblies of God is made.

Section 9. Rehabilitation

When it has been determined, either by a confession of the minister involved or by deliberation of the district presbytery, that there is a cause for disciplinary action as a result of a violation of Assemblies of God principles

as set forth in Article IX, A, Section 2, it shall then be the responsibility of the district presbytery to determine whether or not the offense warrants expulsion from the Fellowship by dismissal or restoration to good standing in the Fellowship through a program of rehabilitation. Recognizing that the underlying principle involved in discipline is redemptive, and that man's conscience frequently brings him to judgment and confession, and that justice can sometimes best be served with mercy; therefore, the following provisions for rehabilitation shall apply:

a. Basis. Those found to have violated any of the Assembly of God principles (Article IX, A, Section 2) shall be subject to a period of rehabilitation.

b. Period of time. The period of rehabilitation shall be not less than 1 year except when the violation involves misconduct defined in Article IX, A, Section 2, paragraph a, in which case it shall be for not less than 2 years.

c. Procedure and requirements. The following procedure shall be used by the district presbytery in determining the specific requirements of rehabilitation for the individual minister.

(1) *Suspension.* The minister shall be considered to be under suspension during the entire period of rehabilitation, and his credentials shall be held in the district office. The extent to which he may be permitted to minister, if any, shall be determined by the district presbytery. Certain offenses may not require complete cessation of ministerial activities, although some restrictions or limitations may be warranted.

(2) *District member with conditions.* The minister must remain a member of the district during the period of rehabilitation. While his credentials are in

a state of suspension, his name shall not be published as removed from the ministerial roster. In the event his ministerial activity has been terminated, the minister must become established in a local church working under the supervision of a pastor and presbyter.

(3) *District progress reports.* The Credentials Committee of the district shall submit to the Credentials Committee of the General Council on February 1 and August 1 of each calendar year a progress report relative to the rehabilitation of ministers under discipline.

(4) *Minister's reports.* The minister must submit reports quarterly to the district superintendent.

(5) *Classified information.* The rehabilitation record shall not accompany the Certificate of Transfer to another district. The information shall be preserved for future reference to the files of the district and the Credentials Committee of The General Council of the Assemblies of God.

(6) *Completion of rehabilitation* . When the rehabilitation period is satisfactorily completed, the minister shall be considered in good standing and his credentials restored.

(7) *Terms subject to district discretion.* The terms of rehabilitation as above stated shall be administered at the discretion of the district presbytery.

(8) *Ministerial benefits not forfeited.* During the period of rehabilitation the minister shall continue to be eligible for benefits such as the Ministers Group Insurance and Ministers Benefit Association.

d. Eligibility for rehabilitation.

(1) *Previous dismissal.* In the event a minister who has been dismissed shall later show repentance and indicate his desire for reinstatement, he shall, upon obtaining the approval of the district, enter the appropriate rehabilitation program as prescribed in

Section 9, paragraph b, of this article, with the provision that he shall not be eligible for reinstatement until the requirements of the program have been satisfactorily completed.

(2) *Previous rehabilitation.* In the event a minister has undergone a previous rehabilitation experience, and/or has a record of a prior violation(s) of Assemblies of God principles necessitating disciplinary action as defined in Article IX, A, Section 2, permission for rehabilitation shall be granted only by the General Council Credentials Committee and terms of such rehabilitation shall be approved by that body.

Section 10. Restoration of Credentials

a. Minimal time-lapse for dismissed minister. For a minister who is listed as "dismissed," the minimal time-lapse required before he/she is eligible to apply for reinstatement shall be 1 year, except that a minister who is dismissed because of charges as stated in Article IX, A, Section 2, paragraph a, the minimal time-lapse shall be 2 years. The time-lapse shall be computed from the date of the district presbytery action as it appears on the termination report filed with the Credentials Committee of The General Council of the Assemblies of God. (See Bylaws Article VII, Section 6, for other renewals and reinstatements.)

b. Rehabilitation requirement obligatory. When a minister has been dismissed from our Fellowship and applies for reinstatement, it shall be the responsibility of the district council and General Council credentials committees to determine if he should go through the formal rehabilitation program, or if he has satisfactorily fulfilled the remedial requirements of such rehabilitation as outlined in Bylaws Article IX, A, Section 9, paragraph c.

c. Option to refer to General Presbytery. The Credentials Committee may also hold reinstatement of a minister's credentials in abeyance until the next session of the General Presbytery in order that the General Presbytery may have the opportunity to review the case, in which event the matter of reinstatement of such minister may be left entirely with that body.

d. Authorization. Application for reinstatement may be made through the district council within which territory the applicant resides. The applicant shall be considered subject to the approval of the district in which the termination was made.

e. Terminology

(1) *Renewed.* The term renewed shall be used to apply strictly to those who for inadvertent reasons fail to comply with the annual deadline of January 31, but do renew with said renewal bearing a postmark of not later than February 15.

(2) *Reinstatement.* The term *reinstatement* shall apply to all those whose names have been deleted from the official ministerial list for whatever reason and have paid a $50 reinstatement fee to be divided equally between the district and General Council offices, and received district clearance for restoration to the ministerial list. (See also Article IX, B, Trial by Jury, Section 15.)

* * *

LOUISIANA DISTRICT COUNCIL
ASSEMBLIES OF GOD

1986-1987
BYLAWS

* * *

ARTICLE XI—DISCIPLINE AND TRIALS

Section 1. The Nature and Purposes of Discipline.

Discipline is an exercise of scriptural authority for which the church is responsible. The aims of discipline are that God may be honored, that the purity and welfare of the ministry may be maintained, and that those under discipline may be brought to repentence and restoration.

Discipline is to be administered for the restoration of the minister, while fully providing for the protection of the spiritual welfare of our local Assemblies. It is to be redemptive in nature as well as corrective, and is to be exercised as under a dispensation of mercy.

Section 2. Causes of Disciplinary Action.

Violation of Assemblies of God principles as stated in these Constitution and By-Laws may give cause for disciplinary action by the Credentials Committee. Among such causes for action shall be:

A. Any conduct unbecoming to a minister or indiscretions involving morals.

B. General inefficiency in the ministry.

C. A failure or inability to represent our Pentecostal testimony correctly.

D. A contentious or noncooperative spirit.

E. An assumption of dictatorial authority over an assembly.

F. An arbitrary rejection of District counsel.

G. A declared open change in doctrinal views from the Tenets of the Faith.

H. A habit of running into debt which brings reproach upon the cause.

I. A marriage in violation of our stand on marriage and divorce.

J. Violation on ministerial courtesy.

K. Ministry without prior approval in a non-Assemblies church.

L. An improper attitude toward those dismissed from the Fellowship.

Section 3. Initiative.

A. Authority: Credentials committees, which have the authority to ordain ministers and to recommend them for credentials, also have the right to withdraw their approval and to recommend the recall of credentials.

B. Prior Right of District in Which the Alleged Offense Occurred: The officiary of the District in which the alleged offense is reported to have occurred shall be recognized as having the prior right of initiative in matters of discipline. Reports or complaints against a minister, alleging violations of Assemblies of God principles, filed with the Credentials Committee of The General Council of the Assemblies of God shall be referred to the District in which the offense allegedly occurred for investigation

and such action as the revealed facts may warrant. A copy of the referral shall also be sent to the minister's home District.

C. Responsibility of the Minister's Home District: If the District in which an alleged offense is reported to have occurred, for some reason, cannot take action, the Credentials Committee of The General Council of the Assemblies of God shall refer the matter, together with the facts and supporting instruments, to the District with which the minister is affiliated.

D. Responsibility of the General Council Credentials Committee: In the event the District fails to take action within ninety days after a matter has been referred to it, it shall be the responsibility of the Credentials Committee of The General Council of the Assemblies of God to see that action is initiated.

Section 4. Investigation of Reports or Complaints of Alleged Violations of Assemblies of God Principles.

A. Alleged Misconduct Within the United States: When a report or complaint of alleged violations by a minister is received, the Superintendent of the District in which the alleged offense is reported to have occurred, and/or an appointed representative, shall make an investigation, having in mind that it is his responsibility to safeguard the church, the minister, the District, and Fellowship. This shall be done to determine the source of the report or complaint. The persons involved shall be interviewed in order to ascertain the facts in the case and the reasons underlying the persistence of the reports or complaints, after which the accused minister shall be interviewed. In the event the investigation produces just cause

for belief that a violation has occurred, signed complaints shall be filed with the District office by the Superintendent or his appointed representative describing the alleged violation. These complaints should be signed by the complaining witness or witnesses, by the District Superintendent, or by the District Superintendent's appointed representative.

B. Alleged Misconduct Outside the United States: In case the alleged misconduct occurs outside the United States in an area under the general oversight of the Foreign Missions Division, that division shall take the initiative to place complete data in the hands of the home District of the minister involved. Any hearing or trial affecting the Foreign Missions Division shall convey all information available to the home District in the following manner:

1. Report to Home District: At the earliest date after the Foreign Missions Division receives a report of misconduct, such report shall be conveyed by telephone and by letter to the Superintendent of the home District of the minister or missionary, with a copy to the District missionary secretary.
2. Submissions of Confidential File: A confidential file shall be submitted to the appropriate District Superintendent, conveying to him all information as it becomes available to the division. A complete file shall be prepared under the direction of the field secretary of the field involved, and shall be presented to the District Superintendent for his use in any action the District may take.
3. Additional Information. When in the judgement of the Foreign Missions Division or the District involved, basic information is lacking (which information may be available at the site of the al- be presented in the District Superintendent for

leged misconduct), arrangements may be made for the gathering of that information through the Foreign Missions Division.

Section 5. Preparation and Filing of Charges.

If after due investigation it is determined that there is just cause to believe that a violation has occurred, proper charges shall be prepared and filed in the District office, signed in accordance with Section 4(a) above. Members of the District officiary making the investigation may prefer charges based on the evidence in their possession. The person against whom charges have been filed shall be informed in writing of the charges made by certified mail, return receipt requested.

Section 6. District Hearing and Discipline.

In the event the reports or complaints cannot be dealt with privately to the satisfaction of all concerned, the Superintendent of the District in which the alleged offense is said to have occurred, or the Superintendent of the District with which the minister is affiliated, shall arrange for a hearing by the District Credentials Committee for the accused minister. The minister shall be requested to appear at the hearing in the hope the matter can be resolved.

A hearing shall not be considered as final disposition of the case until the accused be present and be allowed all rights and privileges granted herein: Provided, however, an accused member may be disciplined and found guilty of charges preferred, if he refuses to appear at the hearing, or if the accused minister is found guilty willfully neglecting to take advantage of the rights and privileges afforded by these By-Laws.

If the District Credentials Committee determines that guilt has been established, discipline shall be administered prayerfully and in the fear of God, in accordance with the Scriptures, and as set forth in these Constitution and By-Laws.

Section 7. Credentials Termination.

A. Dismissal: A minister who has been found guilty of violating any of the Assemblies of God principles set forth in Section 2 of this Article shall be subject to disciplinary action on the initiative of the District Credentials Committee. Said discipline shall be administered in brotherly love and kindness in an effort to lead the offending minister through a program of rehabilitation (See Section 9 of this Article). The Credentials Committee shall weigh decisions on the basis of the offense itself, the attitude of the offending minister toward the discipline, the manner and thoroughness of his repentance, the desire he manifests to cooperate and the possibility of success in his rehabilitation.

In the event rehabilitation is not feasible or fails, the Credentials Committee may decide to terminate the minister's credentials.

B. Surrender of Fellowship Certificates: In all cases of discipline the minister shall be requested by the District Credentials Committee to surrender his credentials when the decision to terminate is final, or when a trial by jury has been requested. When an ordained minister is terminated, and that termination is final, his credentials are to be returned to the office of the District Secretary. Refusal to surrender his Certificate of Ordination and cur-

rent Fellowship Certificate shall be considered insubordination and result in placing further charges against the minister.

C. Publication: No publication of disciplinary action shall be made until the District Credentials Committee decision to discipline has become final, after all appeal rights have been exhausted. The name of a minister who has been terminated shall only then be published under the caption in the minister's letter known as 'Assemblies of God Minister.'

Immediately following the dismissal of a minister holding credentials with the Louisiana District Council, all ministers of the Louisiana District shall be notified by confidential letter of the action taken and be reminded of their ethical responsibilities outlined in the General Council Constitution and By-Laws (ARTICLE VIII, B, Section 10, page 126).

Section 8. Referral for Action to The Credentials Committee of The General Council of the Assemblies of God:

A. District Recommendation and Notification: If it is determined that a minister's credentials are to be terminated, the District shall recommend to the Credentials Committee of The General Council of the Assemblies of God that his name be removed from the official list of ministers, in accordance with Section 7 of this Article. Such recommendation shall set forth in writing satisfactory reason for the action. Copies of these charges and recommendations shall be forwarded to the said Credentials Committee, to the minister involved, and to the Superintendent of the minister's home District.

B. Thirty Days Allowed to Appeal for a Trial: Thirty days from the date of the notification of the District decision shall be allowed for the accused to appeal and request a trial. This right shall exist in the event the District Credentials Committee decides to impose any disciplinary measure against the minister. He shall be apprised officially of this right at the time the District decision is made. Request for a trial by jury shall comply with Section 11 of this Article.

C. Action of General Council Credentials Committee: The General Council Credentials Committee is authorized to comply with the request of the District, if, in its judgment, the District was justified in the action taken. If the General Council Credentials Committee finds that justice has not been served, it may refer the case, together with its recommendations, back to the District Credentials Committee for review and reconsideration. In this event, the right to request a trial by jury will be preserved until after the reconsideration and review has been made and a decision reached by the District Credentials Committee. The 30 day right to request a trial by jury shall begin again at the time of notification of this further decision by the District Credentials Committee.

Section 9. Rehabilitation:

A. Responsibility of the District Credentials Committee to Determine Whether Dismissal or Rehabilitation is Appropriate Action: When it has been determined, either by a confession of the minister involved or by deliberation of the District Credentials Committee, that there is a cause for disciplinary action as a result of a violation of Assemblies of God principles as set forth in

Section 2 of this Article, it shall then be the responsibility of the District Credentials Committee to determine whether or not the offense warrants expulsion from the Fellowship by dismissal or restoration to good standing in the Fellowship through a program of rehabilitation.

B. Underlying Principle in Discipline: It is recognized that the underlying principle involved in discipline is redemptive, that man's conscience frequently brings him to judgement and confession, and that justice can sometimes best be served with mercy.

C. Provisions for Rehabilitation: With the foregoing in mind, the following provisions for rehabilitation shall apply:

1. Basis: Those found to have violated any of the Assemblies of God principles stated in Section 2 of this Article shall be subject to a period of rehabilitation.
2. Period: The period of rehabilitation shall be not less than one year, except when the violation involves misconduct defined in Section 2.a., in which case it will be for not less than two years.
3. Procedure: The following procedure shall be used by the Board of Executives and Presbyters in determining the specific requirements of rehabilitation for the individual minister.
    a. Suspension of Credentials: The minister shall be considered to be under suspension during the entire period of rehabilitation.
    b. Retention of Membership in the District: The credentials of the minister undergoing rehabilitation shall be held in the District office during this period, and he must remain a member of the District during this time.

While his credentials are in a state of suspension, his name shall not be published as removed from the ministerial roster.

c. Extent of Ministry: The extent to which he may be permitted to minister, if any, shall be determined by the Board of Executives and Presbyters. Certain offenses may not require complete cessation of ministerial activities, although some restrictions or limitations may be warranted.

d. Supervision if Ministry is Terminated: In the event a minister's ministry has been terminated, he must become established in a local church working under the supervision of a pastor and presbyter.

e. Quarterly Reports: The minister must submit reports quarterly to the District Superintendent.

f. Rehabilitation Record: The rehabilitation record shall not accompany the Certificates of Transfer to another district. The information shall be preserved for future reference in the files of the District and the Credentials Committee of The General Council of the Assemblies of God.

g. Restoration of Credentials: When the rehabilitation period is satisfactorily completed, the minister shall be considered in good standing and his credentials restored.

h. Prerogative of District Presbytery to Administer Rehabilitation: The terms of rehabilitation as above stated shall be administered to the discretion of the District Presbytery.

i. Eligibility for Benefits Not Forfeited: During the period of rehabilitation the minister

shall continue to be eligible for benefits such as the Ministers Group Insurance and Ministers Benefit Association.

4. Reclassification from Dismissal to Rehabilitation: In the event a minister who has been dismissed shall later show repentance and indicates his desire for reinstatement, he shall, upon obtaining the approval of the District, enter the two-year rehabilitation program with the provision that he shall not be eligible for reinstatement until the requirements of the program have been satisfactorily completed.

Section 10. Restoration of Credentials:

A. Minimal Time-Lapse: Computed from the date of the action of the Board of Executives and Presbyters, as it appears on the termination report filed with the Credentials Committee of The General Council of the Assemblies of God, the time-lapse for the different categories shall be as follows:

1. Lapsed: No minimal time-lapse is required for those who have allowed their credentials to lapse due to failure to renew.
2. Resigned and Removed for Inactivity: In such cases a minister will not be eligible for reinstatement until at least six months shall have elapsed after his name has been stricken from our list of ministers.
3. Dismissed: For a minister who is listed as 'dismissed', the minimal time-lapse required before he is eligible to apply for reinstatement shall be one year, except that a minister who is dismissed because of charge of conduct unbecoming to a minister or indiscretions involving morals (Section 2.a.), the minimum time-lapse shall be two years.

B. Right of Referral to the General Presbytery: The General Council Credentials Committee may hold the matter of a minister's reinstatement in abeyance until the next session of the General Presbytery in order that the General Presbytery may have the opportunity to review the case, in which event the matter of reinstatement of such minister may be left entirely with that body.

C. Authorization: Application for reinstatement may be made through the District within which territory the applicant resides. The application shall be considered subject to the approval of the District in which the termination was made.

D. Terminology:

1. Renewed: The term 'renewed' shall be used to apply strictly to those who for inadvertant reasons fail to comply with the annual questionnaire deadline, but do renew on or before April 30 and are restored to the ministerial list.
2. Reinstated: The term 'reinstatement' shall apply to those whose names have been deleted from the official ministerial list, but have received District clearance for restoration to the ministerial list.

* * *

LOUISIANA DISTRICT COUNCIL
ASSEMBLIES OF GOD

1986-1987
BY-LAWS

* * *

ARTICLE VI—MINISTRY

* * *

Section 9. Termination of Credentials (Non-Disciplinary).

A. Categories:

1. Resigned: A minister who has elected to remove himself from the Fellowship, and against whom there are no charges filed.

2. Lapsed: Those who elect or fail to renew their credentials by the specified time.

3. Removal from Ministerial List Due to Insufficient Active Ministry: Those who do not preach the required number of times are placed on an inactive list for one year, and if such inactivity continues a second year, their names are eliminated from the ministerial list.

4. Affiliation with Other Church Organizations: In the event a minister shall identify himself with another organization granting ministerial credentials, and shall have received such credentials, he shall then be requested by the District to surrender his Certificate of Ordination and his current Fellowship Certificate to the District office. The same requirement pertains to those holding Lisence or Christian Workers papers.

B. Responsibility of Credentials Committees.

1. Investigation: Before final action in terminating a minister's credentials shall have been taken by either the District or General Coun-

cil Credentials Committee, due investigation shall be made as to whether there is any cause for disciplinary action.

2. Approval of Termination: If the minister shall be found to be in good standing, the termination shall be approved.

3. Cause for Disciplinary Action: In case the evidence warrants contrary action, the minister shall be advised of the findings, and appropriate disciplinary action shall be taken.

4. Surrender of Credentials: In all cases of termination of current credentials, the minister shall be requested by the District to surrender these. Credentials of ordained ministers shall be forwarded to the General Secretary's Office. Refusal to surrender his Certificate of Ordination and current Fellowship Certificate shall be considered insubordination and may result in placing a charge against the minister.

5. Notification of Action: It shall be the responsibility of the District officiary to notify the office or the general secretary of actions taken in the termination of ordained and licensed ministers, and to fill out and send to that office a Ministerial Status Report form. All information pertaining to the disciplinary action taken against a minister shall be preserved for future reference in the office of the credentials committee of The General Council of The Assemblies of God.

6. Publication of Termination: The names of ordained ministers who are 'lapsed' or who have 'resigned' shall be so indicated and published in the Ministers Letter from the General Headquaters.

• • •

GENERAL COUNCIL
ASSEMBLIES OF GOD

AUGUST 13, 1985
CONSTITUTION

* * *

ARTICLE V.

STATEMENT OF FUNDAMENTAL TRUTHS

* * *

10. The Church and Its Mission

The Church is the body of Christ, the habitation of God through the Spirit, with divine appointments for the fulfillment of her great commission. Each believer, born of the Spirit, is an integral part of the general assembly and church of the firstborn, which are written in heaven (Ephesians 1:22, 23; 2:22; Hebrews 12:23).

Since God's purpose concerning man is to seek and to save that which is lost, to be worshiped by man, and to build a body of believers in the image of His Son, the priority reason-for-being of the Assemblies of God as part of the Church is:

a. To be an agency of God for evangelizing the world (Acts 1:8; Matthew 28:19, 20; Mark 16: 15, 16).

b. To be a corporate body in which man may worship God (1 Corinthians 12:13).

c. To be a channel of God's purpose to build a body of saints being perfected in the image of His Son (Ephesians 4:11-16; 1 Corinthians 12:28; 14:12).

The Assemblies of God exists expressly to give continuing emphasis to this reason-for-being in the New Tes-

tament apostolic pattern by teaching and encouraging believers to be baptized in the Holy Spirit. This experience:

a. Enables them to evangelize in the power of the Spirit with accompanying supernatural signs (Mark 16:15-20; Acts 4:29-31; Hebrews 2:3, 4).

b. Adds a necessary dimension to a worshipful relationship with God (1 Corinthians 2:10-16; 1 Corinthians 12-14).

c. Enables them to respond to the full working of the Holy Spirit in expression of fruit and gifts and ministries as in New Testament times for the edifying of the body of Christ (Galations 5:22-26; 1 Corinthians 14:12; Ephesians 4:11, 12; 1 Corinthians 12-28; Colossians 1:29).

* * *

28 U.S.C. § 1257. State courts; appeal; certiorari

Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court as follows:

(1) By appeal, where is drawn in question the validity of a treaty or statute of the United States and the decision is against its validity.

(2) By appeal, where is drawn in question the validity of a statute of any state on the ground of its being repugnant to the Constitution, treaties or laws of the United States, and the decision is in favor of its validity.

(3) By writ of certiorari, where the validity of a treaty or statute of the United States is drawn in question or where the validity of a State statute is drawn in question on the ground of its being repugnant to the Constitution, treaties or laws of the United States, or where any title, right, privilege or immunity is specially set up or claimed under the Constitution, treaties or statutes of, or commission held or authority exercised under, the United States. June 25, 1948, c. 646, 62 Stat. 929.

---

28 U.S.C. § 2101. Supreme Court; time for appeal or certiorari; docketing; stay

(a) A direct appeal to the Supreme Court from any decision under sections 1252, 1253 and 2282 of this title, holding unconstitutional in whole or in part, any Act of Congress, shall be taken within thirty days after the entry of the interlocutory or final order, judgment or decree. The record shall be made up and the case docketed within

sixty days from the time such appeal is taken under rules prescribed by the Supreme Court.

(b) Any other direct appeal to the Supreme Court which is authorized by law, from a decision of a district court in any civil action, suit or proceeding, shall be taken within thirty days from the judgment, order or decree, appealed from, if interlocutory, and within sixty days if final.

(c) Any other appeal or any writ of certiorari intended to bring any judgment or decree in a civil action, suit or proceeding before the Supreme Court for review shall be taken or applied for within ninety days after the entry of such judgment or decree. A justice of the Supreme Court, for good cause shown, may extend the time for applying for a writ of certiorari for a period not exceeding sixty days.

(d) The time for appeal or application for a writ of certiorari to review the judgment of a State court in a criminal case shall be as prescribed by rules of the Supreme Court.

(e) An application to the Supreme Court for a writ of certiorari to review a case before judgment has been rendered in the court of appeals may be made at any time before judgment.

(f) In any case in which the final judgment or decree of any court is subject to review by the Supreme Court on writ of certiorari, the execution and enforcement of such judgment or decree may be stayed for a reasonable time to enable the party aggrieved to obtain a writ of certiorari from the Supreme Court. The stay may be

granted by a judge of the court rendering the judgment or decree or by a justice of the Supreme Court, and may be conditioned on the giving of security, approved by such judge or justice, that if the aggrieved party fails to make application for such writ within the period allotted therefor, or fails to obtain an order granting his application, or fails to make his plea good in the Supreme Court, he shall answer for all damages and costs which the other party may sustain by reason of the stay.

(June 25, 1948, c. 646, 62 Stat. 961; May 24, 1949, c. 139, § 106, 63 Stat. 104.)

United States Supreme Court Rule 20. Review on Certiorari—Time for Petitioning

.1. A petition for writ of certiorari to review the judgment in a criminal case of a state court of last resort or of a federal court of appeals or a decision of the United States Court of Military Appeals (see 28 U.S.C. Sec. 1259) rendered after June 1, 1984, shall be deemed in time when it is filed with the Clerk within 60 days after the entry of such judgment. A justice of this Court, for good cause shown, may extend the time for applying for a writ of certiorari in such cases for a period not exceeding 30 days.

.2. A petition for writ of certiorari in all other cases shall be deemed in time when it is filed with the Clerk within the time prescribed by law. See 28 U.S.C. § 2101(c).

.3. The Clerk will refuse to receive any petition for a writ of certiorari which is jurisdictionally out of time.

.4. The time for filing a petition for writ of certiorari runs from the date the judgment or decree sought

to be reviewed is rendered, and not from the date of the issuance of the mandate (or its equivalent under local practice). However, if a petition for rehearing is timely filed by any party in the case, the time for filing the petition for writ of certiorari for all parties (whether or not they requested rehearing or joined in the petition for rehearing) runs from the date of the denial of rehearing or of the entry of a subsequent judgment entered on the rehearing.

.5. A cross-petition for writ of certiorari shall be deemed in time when it is filed as provided in paragraphs .1, .2, and .4 of this Rule or in Rule 19.5. However, no cross-petition filed untimely except for the provision of Rule 19.5 shall be granted unless a timely petition for writ of certiorari of another party to the case is granted.

.6. An application for extension of time within which to file a petition for writ of certiorari must set out, as in a petition for certiorari (see Rule 21.1, subparagraphs (e) and (h)), the grounds on which the jurisdiction of this Court is invoked, must identify the judgment sought to be reviewed and have appended thereto a copy of the opinion, and must set forth with specificity the reasons why the granting of an extension of time is thought justified. For the time and manner of presenting such an application, see Rules 29, 42, and 43. Such applications are not favored.

United States Supreme Court Rule 17. Considerations Governing Review on Certiorari

.1. A review on writ of certiorari is not a matter of right, but of judicial discretion, and will be granted only when there are special and important reasons therefor. The following, while neither controlling nor fully measuring the Court's discretion, indicate the character of reasons that will be considered.

(a) When a federal court of appeals has rendered a decision in conflict with the decision of another federal court of appeals on the same matter; or has decided a federal question in a way in conflict with a state court of last resort; or has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such a departure by a lower court, as to call for an exercise of this Court's power of supervision.

(b) When a state court of last resort has decided a federal question in a way in conflict with the decision of another state court of last resort or of a federal court of appeals.

(c) When a state court or a federal court of appeals has decided an important question of federal law which has not been, but should be, settled by this Court, or has decided a federal question in a way in conflict with applicable decisions of this Court.

.2. The same general considerations outlined above will control in respect of petitions for writs of certiorari to review judgments of the United States Court of Appeals for the Federal Circuit, the United States Court of Military Appeals, and of any other court whose judgments are reviewable by law on writ of certiorari.

No. 88-1080 (D)

Supreme Court, U.S.
FILED
JAN 20 1989
JOSEPH F. SPANIOL, JR.
CLERK

In The

Supreme Court of the United States

October Term, 1988

JIMMY SWAGGART, JIMMY SWAGGART MINISTRIES, INC., WILLIAM D. TREEBY, THE FIRST ASSEMBLY OF GOD CHURCH OF NEW ORLEANS, LOUISIANA, INC., LOUISIANA DISTRICT COUNCIL OF THE ASSEMBLIES OF GOD, INC., THE GENERAL COUNCIL OF ASSEMBLIES OF GOD, LAKEVIEW CHRISTIAN CENTER, CANAL ST. ASSEMBLY OF GOD, INC., MICHAEL INDEST, TOM MILLER, CECIL JANWAY, G. RAYMOND CARLSON, WALDO RISNER, ALLAN MCDONNEL AND DON BRANKEL,

Petitioners,

versus

DAVID V. ADLER, TRUSTEE IN BANKRUPTCY, IN THE MATTER OF MARVIN E. GORMAN AND VIRGINIA A. GORMAN, NO. 04024-K, AND IN THE MATTER OF MARVIN GORMAN MINISTRIES, INC., FORMERLY WHO CARES MINISTRIES, INC. NO. 04025-K,

Respondent.

On Petition for Writ of Certiorari to the Supreme Court for the State of Louisiana

RESPONDENT'S BRIEF IN OPPOSITION

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QUESTION PRESENTED FOR REVIEW

Whether the Louisiana Court of Appeals for the Fourth Circuit was correct in finding that the District Court of Orleans Parish had the right to exercise jurisdiction over this lawsuit.

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No. 88-1080

In The

Supreme Court of the United States

October Term, 1988

JIMMY SWAGGART, JIMMY SWAGGART MINISTRIES, INC., WILLIAM D. TREEBY, THE FIRST ASSEMBLY OF GOD CHURCH OF NEW ORLEANS, LOUISIANA, INC., LOUISIANA DISTRICT COUNCIL OF THE ASSEMBLIES OF GOD, INC., THE GENERAL COUNCIL OF ASSEMBLIES OF GOD, LAKEVIEW CHRISTIAN CENTER, CANAL ST. ASSEMBLY OF GOD, INC., MICHAEL INDEST, TOM MILLER, CECIL JANWAY, G. RAYMOND CARLSON, WALDO RISNER, ALLAN MCDONNEL AND DON BRANKEL,

Petitioners,

versus

DAVID V. ADLER, TRUSTEE IN BANKRUPTCY, IN THE MATTER OF MARVIN E. GORMAN AND VIRGINIA A. GORMAN, NO. 04024-K, AND IN THE MATTER OF MARVIN GORMAN MINISTRIES, INC., FORMERLY WHO CARES MINISTRIES, INC. NO. 04025-K,

Respondent.

On Petition for Writ of Certiorari to the Supreme Court for the State of Louisiana

RESPONDENT'S BRIEF IN OPPOSITION

Respondent, David V. Adler, Trustee in Bankruptcy, in the Matter of Marvin E. Gorman and Virginia A.

Gorman, No. 04024-K, and in the Matter of Marvin Gorman Ministries, Inc., formerly Who Cares Ministries, Inc., No. 04025-K, respectfully submits this Brief in Opposition to the Petition for Writ of Certiorari filed herein by Jimmy Swaggart and Jimmy Swaggart Ministries, Inc.

STATEMENT OF THE CASE

Plaintiffs, Marvin Gorman and Marvin Gorman Ministries, Inc., instituted this action on March 24, 1987, naming thirteen separate defendants alleging defamation, libel, invasion of privacy and intentional infliction of emotional distress. On May 22, 1987, the plaintiffs' filed a First Supplemental and Amending Petition alleging a conspiracy by the defendants to defame and ruin Marvin Gorman and Marvin Gorman Ministries, Inc. The plaintiffs later amended their Petition naming two additional parties who allegedly participated in the conspiracy and also added the insurance companies of various defendants as permitted by Louisiana law.

On June 8, 1987, the District Court of Orleans Parish dismissed the General Council of Assemblies of God, Michael Indest and Lakeview Christian Center from this suit for lack of subject matter jurisdiction. Shortly thereafter, the other defendants joined in the Exception for Lack of Subject Matter Jurisdiction and the trial court dismissed all of the remaining defendants for lack of subject matter jurisdiction on August 31, 1987. At the

time of the hearing on the Exceptions, the plaintiffs had not been permitted to take one deposition. Since the trial court did not provide written reasons, it is assumed the court's dismissal for lack of subject matter jurisdiction was couched on the defendants' attorneys' representations, a copy of the Assemblies of God By-Laws and Constitution, and the ordination papers of Reverend Marvin Gorman that had been submitted to the court at the hearing.

In March, 1988, David V. Adler, Trustee in Bankruptcy, in the Matter of Marvin E. Gorman and Virginia A. Gorman, No. 04024-K, and in the Matter of Marvin Gorman Ministries, Inc., formerly Who Cares Ministries, Inc., No. 04025-K, was substituted as the proper party plaintiff.

On April 22, 1988, the Louisiana Court of Appeals for the Fourth Circuit Reversed and Remanded the case for trial asserting that the trail court had jurisdiction to the hear the case.

On September 23, 1988, the Louisiana Supreme Court denied the Petitioners' writ application on the issue of subject matter jurisdiction.

Following the Louisiana Supreme Court's denial of their writ application, the Petitioners filed a Petition for Writ of Certiorari with this Honorable Court.

SUMMARY OF ARGUMENT

The Louisiana Supreme Court and the Louisiana Court of Appeals for the Fourth Circuit properly concluded that the District Court of Orleans Parish maintain subject matter jurisdiction over this lawsuit.

ARGUMENT

The Louisiana Court of Appeals for the Fourth Circuit correctly concluded (and the Louisiana Supreme Court agreed) that the trial court had a right to exercise jurisdiction over this case and that there was no infringement upon the First Amendment of the United States Constitution and/or any interference with precedence of this Court or any other court for that matter.

A. THE LOUISIANA COURT OF APPEALS FOR THE FOURTH CIRCUIT AND THE LOUISIANA SUPREME COURT CORRECTLY CONCLUDED THAT PLAINTIFFS ARE NOT SEEKING CIVIL REVIEW OF AN ECCLESIASTICAL MATTER.

Counsel for defendants have repeatedly argued before the trial court, Louisiana Court of Appeals for the Fourth Circuit, Louisiana Supreme Court and now before this Honorable Court that Gorman is disputing his dismissal as a minister and complaining of Assembly of God conduct exercised in accordance with the Assembly of God Constitution, By-Laws and teachings of scripture; obviously, to afford the defendants a separation of church and state argument. However, the Louisiana Court of Appeals for the Fourth Circuit's decision concluded that

Gorman was not disputing his dismissal. (Petitioners' App. 18, ¶ 1). Petitioners also contend that they acted in accordance with the Assemblies of God doctrine and discipline when disclosing Gorman's indiscretions (which respondent contends are lies). The petitioners as part of their appendix attached the September 2, 1986 statement (Petitioners' App. 86), as well as the August 20, 1986 letter of Jimmy Swaggart (Petitioners' App. 84), but failed to attach the five-page statement authored by Jimmy Swaggart concerning Marvin Gorman (Respondent's App. 1).

Although a number of depositions are scheduled to be taken, the Plaintiffs/Respondents herein have had the opportunity to take two days of testimony from two defendants, Jimmy Swaggart and Cecil Janway. The testimonies reveal Jimmy Swaggart's conduct of August 20, 1986, in writing the letter and the statement, as well as Cecil Janway's conduct, in conjunction with other defendants, toward the September 2, 1986 statement did not further church discipline, church doctrine or individual beliefs, contrary to the representations to the courts below, as well as in the Petitioners' brief herein. (See Motion for Contempt and/or for Sanctions – Respondent's App. 6).

The First Amendment of the United States Constitution does not protect defamation nor does it deprive a Louisiana Court for exercising jurisdiction over defamation. The First Amendment of the United States Constitution and Article 1, Section 4 of the Louisiana Constitution both guarantee religious freedom and freedom from interference by secular courts in the ecclesiastic matters of religious groups. *Serbian Eastern Orthodox Diocese for*

the U. S. and Canada v. Milojevich, 426 U.S. 696, 96 S.Ct. 2372, 2389 (1976); *Wilkerson v. Battiste,* 393 So. 2d 195 (La. App. 1st Cir. 1980). However, malicious accusations allegedly voiced in an ecclesiastical setting, falsely indicting a man as a repeated adulterer, a demon, a father of illegitimate children, are not exercises of religious freedom protected by the First Amendment. Thus, the lower court's holding "that civil courts of Louisiana have subject matter jurisdiction over this suit" is a correct interpretation of the First Amendment of the United States Constitution and Article 1, Section 4 of the Louisiana Constitution requiring no review by this Court. For these reasons, the Petition for Writ of Certiorari should be denied.

B. THE "UNIVERSAL CHURCH" ARGUMENT IS FICTITIOUS.

Although the Louisiana Court of Appeals for the Fourth Circuit, made an astute observation in its opinion on the defendants' argument of the universal church, (Petitioners' App. 19) the recent testimony of Jimmy Swaggart represents that no such belief exists. (See Motion for Contempt and/or Sanctions – Respondent's App. 6). For these reasons, the Petition for Writ of Certiorari should be denied.

C. THE FIRST AMENDMENT OF THE UNITED STATES CONSTITUTION OR ARTICLE 1, SECTION 4 OF THE LOUISIANA CONSTITUTION DO NOT PROTECT LAWLESS CONDUCT EVEN WHEN THE SAME IS CONDUCTED IN THE NAME OF RELIGION.

Defamation in Louisiana is a quasi-offense governed by LSA-C.C. Article 2315 and where words *impute immorality* or other traits or acts calculated to arise hatred, ridicule, etc., the words are "defamatory per se." *Moreau v. Brenan,* 446 So. 2d 572 (La. App. 5th Cir. 1985). Where defamation is alleged, even in an ecclesiastical setting, the civil courts of this state may exercise subject matter jurisdiction. *Joiner v. Weeks,* 383 So. 2d 101, 102 (La. App. 3rd Cir. 1980). *See also Marianguinn v. The Church of Christ of Collinsville, Oklahoma, et al.,* No. 62,154 (Okl. Sup. Ct. January 17, 1989).

Although the Louisiana Court of Appeals for the Fourth Circuit did not address this question, it will be argued at trial that even if the defendants acted in furtherance of religious belief, (which is at all times denied) the same is not protected by the United States Constitution nor the Louisiana Constitution. For example, an individual cannot batter or kill another with immunity from prosecution, believing his/her actions to be a religious obligation. Neither can a man be acquitted of polygamy because he believed it to be a religious duty. *Reynolds v. United States,* 98 U.S. 244 (1879). *See also Gonzalez v. Roman Catholic Archbishop,* 280 U. S. 1, 50 S.Ct. 5, 74 L.Ed. 131 (1929).

Furthermore, the test becomes *New York Times v. Sullivan,* 376 U.S. 254 (1964), that is, one cannot knowingly

spread lies about another nor can he make defamatory statements that constitute defamation in total disregard for their truth. *See also Gaillot v. Sauvageau,* 151 So. 2d 515, 518 (La. App. 4th Cir. 1963). For these reasons, the Writ of Certiorari should be denied.

D. THE LOUISIANA SUPREME COURT'S DECISION AND THE FOURTH CIRCUIT COURT OF APPEALS' DECISION DOES NOT CONFLICT WITH ANY FEDERAL APPELLATE COURT DECISION.

Petitioners' argument that the Louisiana Appellate Court's and Louisiana Supreme Court's decisions hereinbelow conflict with *Hutchison v. Thomas,* 789 F.2d 392 (6th Cir.) cert. denied, 479 U.S. 85 (1986), is in error. This Court need only look at Page 393 of the Sixth Circuit's decision to know such argument is without merit. There the court states:

> Appellate's basic claim is that the United Methodist Church wrongfully expelled him from his ministry in the defendant East Ohio Conference by fraudulent or collusive or arbitrary application of the rules, laws and doctrinal statements known as *The Discipline.*

It is undisputed that Marvin Gorman tendered his resignation on July 16, 1986 and that the church formally dismissed him shortly thereafter. (See Motion for Contempt and/or Sanctions – Respondent's App. 6). As the Louisiana Court of Appeals for the Fourth Circuit concluded and now has been confirmed by discovery, Marvin Gorman has never complained about his dismissal nor has he ever asked for reinstatement. The petitioners' *Hutchison* argument does not apply. For these reasons, the Petition for Writ of Certiorari should be denied.

E. THE PETITIONERS ARE ONLY CONCERNED WITH INFORMATION THAT WILL BE DISCLOSED ABOUT DEFENDANTS AS OPPOSED TO ANY THIRD PARTIES.

Ironically, the defendants, who spread untrue statements, rumors and gossip about Marvin Gorman and others, make the argument that the plaintiff-respondent's lawsuit may invade the privacy of others, when in fact they have used the names of others in vain. As this Court will note in the Motion for Contempt and/or for Sanctions filed by Defendants-Respondents herein on January 10, 1988, in the trial court, the defendants' brought the Motion for Protective Order under false pretenses. (Respondent's App. 6). Accordingly, this Court should deny the Writ of Certiorari.

CONCLUSION

The Louisiana Court of Appeals for the Fourth Circuit properly reversed and remanded this case for trial. The Louisiana Supreme Court properly denied the Writ of Certiorari. Although these courts did not have the benefit of any discovery which is now forthcoming, the same will demonstrate at trial that the Louisiana Court of Appeals for the Fourth Circuit and the Louisiana Supreme Court were correct in allowing the plaintiff-respondent his day in court.

Plaintiff-Respondent further requests this court enter sanctions under Rule 11 of the Federal Rules of Civil Procedure against the defendants-petitioners herein for the reasons stated in the Motion for Contempt and/or for

Sanctions presently pending the District Court of Orleans Parish, Louisiana. (Respondent's App. 6).

Respectfully submitted,

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STATEMENT FROM JIMMY SWAGGART CONCERNING MARVIN GORMAN

There will be no names given concerning guilty parties or innocent victims related to the incidents set forth in this statement. The names are fairly well known and can be supplied upon request. To save embarrassment, no names except those of witnesses will be used in this statement.

In 1981, Frances Swaggart began receiving telephone calls from a lady who attended Marvin Gorman's church. The lady involved has been and is a long time friend of ours. Her family is quite prominent in First Assembly.

Over a series of several weeks, this lady began to relate to Frances events leading into an immoral affair involving Marvin Gorman.

I personally questioned the lady very closely concerning these events and I feel that she was truthful in all accounts given.

This affair lasted approximately two years. Marvin Gorman would purchase gifts and give them to her. They would park on side roads or in remote places for long periods of conversation. All of this was done with no chaperon nor anyone else being present.

The affair gradually evolved into "petting" and "kissing" and finally concluded in a motel room in approximately 1981.

"Petting" and "kissing" were involved in the motel experience. In the conversation that was included in the incident, the lady said the Marvin Gorman applied heavy pressure on her involving a sexual affair. His statement

was, "I can cover it and no one will ever know." She states that she jumped up and ran out of the room. The following should be added to this scenario.

For several months before this situation was stopped, her husband (a former deacon at First Assembly), suspecting something was going on, had the telephone tapped. He recorded many hours of conversation between his wife and Marvin Gorman over a period of several months. He is satisfied that his wife is telling the truth.

There seemed to be no adultery involved, even though Marvin Gorman pressured her greatly to engage in same but, as stated, she ran out of the room.

A short time after her relating this incident to me by telephone, I saw Marvin in an airport terminal. I asked him to come and see me in Baton Rouge when he had some time. A few weeks later, he came to my office in Baton Rouge.

In the privacy of my office with only the two of us present, I confronted him with the information I have just stated.

He broke down, started to weep and admitted it had happened with one exception. He denied any effort to try to get her in bed. Of course, it must be understood that, according to her testimony, they were sitting on the bed at the time.

She vows vehemently that a strong effort was made by him to get her in bed for a sexual affair.

As we discussed this in my office, I told him it would be hard to believe that any man would take a woman to a

motel room, engage in "petting" and "kissing" and give no thought to going to bed with her.

I asked him if there had been other situations involving other women and he vowed that this was the only one. However, it must be understood that at this same time, he was, even then, having an affair with the second woman (an Assemblies of God pastor's wife). So, in effect, he lied to me.

I told him that I would not say anything to Brother Janway or Brother Zimmerman (then the General Superintendent) if I was assured that the matter would stop immediately. I felt I had a way to monitor the situation through the woman in question. He assured me the matter would end then and there and I feel it did end. However, it must be added once again, the affair with the other woman was even then going on and continued for nearly a year after this particular confrontation. (This was learned after the fact.)

While at General Council in San Antonio, Bob Schmidgall, who was to become an Executive Presbyter at this particular Council called me.

He stated that Marvin Gorman had received a strong vote for the position of General Superintendent. The possibility definitely existed that Marvin would be elected Assistant General Superintendent. Brother Schmidgall said this.

"I have heard that you have some information respecting an immoral situation concerning Marvin Gorman. If you do, I need to know about it."

I hesitated and then went ahead and told him what I have related above. I never saw Brother Schmidgall after that and do not know what transpired. However, I do know that Marvin Gorman removed his name relative to this particular position but was re-elected as Executive Presbyter of the Assemblies of God.

On Thursday, July 10, 1986, Bill Treeby, a Board member of Jimmy Swaggart Ministries and a member of Lakeview Assembly of God church in New Orleans came to my office on business concerning J.S.M.

In my office, he said to me, "There has been a problem in New Orleans. An Assemblies of God pastor's wife has committed adultery with an Assemblies of God pastor." Oddly enough, I did not ask him who it was and he did not, at that time, tell me.

The following Sunday morning I preached at Family Worship Center. Immediately after the service, we left to go to San Jose, Costa Rica to dedicate a church. Bill Treeby and his wife, Nancy, accompanied us. Bill had been involved in the Costa Rican work and wanted to see the church.

On the plane, he told us the names of the pastor's wife and the corresponding party. That party was Marvin Gorman, he said.

When we arrived in San Jose, Bill called his pastor, Mike Indest of Lakeview Assembly in New Orleans. I understand the following is what transpired respecting Mike Indest and Bill Treeby.

The woman in question (the second woman) came to Mike's home for counseling. These people had been long

time friends. I understand Mike's wife and children were present. At any rate, the woman confessed to Mike several immoral affairs, one of them involving Marvin Gorman.

I talked to Mike briefly on the phone from San Jose. The conversation basically included the events up to that particular time.

We returned to Baton Rouge from San Jose on Monday morning. I am told that some time on Tuesday afternoon, the pastor whose wife had committed the offense confronted Marvin Gorman in Marvin's office. After being informed that Mike Indest was a party to this knowledge, Marvin called Mike Indest. He asked if Mike would come to his office. I understand that Mike requested that Marvin come to his office instead. This was done.

About 5:30 PM that Tuesday afternoon (July 15, 1986), I was still at my office when Mike called to tell me that Marvin Gorman was in his, Mike's office. Marvin was accompanied by David Savage. Mike said to me, "He has confessed to everything." Mike said he wanted to come to my office. He said he did not feel qualified to deal with this situation any longer and it needed to be placed in someone else's hands.

I understand the reason he did not contact Brother Janway was because Brother Gorman asked him not to. At any rate, Mike requested that they come to Baton Rouge.

I acquiesced to this but requested that Bill Treeby be included because Mike, realizing the enormity of the

situation, had confided in Bill from the very beginning. (Bill Treeby is an Attorney-at-Law with the prestigious legal firm of Stone, Pigman in New Orleans.)

They consented to this and arrived at my home in Baton Rouge around 8 PM. Those at this meeting were myself, Jim Reutz, Bill Treeby, Mike Indest, Marvin Gorman and David Savage. Mike Indest briefly related to me what had taken place.

I then turned to Marvin Gorman (we were in my study) and asked him if this was so. He said, "Yes."

He basically related the same thing Mike Indest had. The situation had continued for nearly four years. The names of motels were provided by the woman in question to Mike Indest and even some dates. Marvin admitted, in front of all those present, that this was true.

I then asked Marvin if there had been any other women involved. He assured me no other women were involved. I said to him, "Marvin, I believe there have been women involved all the time since you were D-CAP up until this present hour. Why don't you, at this moment, come clean about everything and make a total confession?"

He vehemently vowed that there were no others involved. Then I said this to him.

"These are the same, identical words you told me when I talked to you about the first woman in 1981. You vowed then that there were no other women involved and at that very time you were involved with this particular woman. You lied to me then and I believe you are lying to me now."

He was forced to admit that he had lied back in 1981, but he again remonstrated that no other women were involved.

I asked him what he was going to do. The room became very heavy with silence. No one said anything. Marvin never answered.

I walked to my desk, picked up the Bible and turned to I Timothy 5:20. I told him to read it. He did so out loud. This particular passage relates to an elder who has sinned.

He, still, said nothing.

I, then rephrased my question and asked, "What should you do?"

Once again the room became very heavy with silence and he still did not answer.

After a considerable period of time, I stated to him, "You are going to have to call Brother Carlson and Brother Janway."

He then pleaded to be given a period of time to get the finances of the church in order. He said, "Men will be in the church offices tomorrow relative to making a loan to the church of some $16 million. I must be allowed to get this loan in order."

I told him it would not be right for these men (whomever they were) to make a loan to a church without information of this magnitude being given to the lending agency. To carry forth with this would be tantamount to fraud.

Everyone in the room agreed with that. I further stated to him, "You must tell the lending agency about this change in the church. If they still want to loan the money, that is their business, but they must know about this."

No more was said concerning the loan. Marvin then said to me, "I will call Brother Carlson and Brother Janway, but first of all, I want to teil my family."

We were concerned for him; consequently, I had Jim Rentz drive his car back to New Orleans while Bill Treeby and Mike Indest went back in their car. I took Marvin and David Savage in my car.

On the way to New Orleans, Marvin asked about a woman who had worked for him and then had worked for us for a short time. He wanted to know if she had told me that they (she and Marvin Gorman) had had an affair. I told him she had not told me this. It is my personal belief that this was another case involving an immoral affair; however, I say this without proof.

We had had prayer together in my study and when we all arrived at David Savage's church in New Orleans, we had prayer together again and Marvin Gorman left.

This is the sum total, as best I can remember, of my involvement concerning the affairs in question respecting Marvin Gorman.

/s/ Jimmy Swaggart

CIVIL DISTRICT COURT FOR
THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO. 87-5289 DIVISION "K" DOCKET NO.

DAVID V. ADLER, TRUSTEE IN BANKRUPTCY, *IN THE MATTER OF MARVIN E. GORMAN AND VIRGINIA A. GORMAN, CASE NO. 04024-K* AND *IN THE MATTER OF MARVIN GORMAN MINISTRIES, INC., FORMERLY WHO CARES MINISTRIES, INC., CASE NO. 04025-K*

VERSUS

JIMMY SWAGGART AND
JIMMY SWAGGART MINISTRIES, INC., ET AL

FILED:_____ _____
DEPUTY CLERK

MOTION FOR CONTEMPT AND/OR FOR SANCTIONS

NOW INTO COURT, through undersigned counsel, comes plaintiff herein, DAVID V. ADLER, TRUSTEE IN BANKRUPTCY, *IN THE MATTER OF MARVIN E. GORMAN AND VIRGINIA A. GORMAN, CASE NO. 04024-K* AND *IN THE MATTER OF MARVIN GORMAN MINISTRIES, INC., FORMERLY WHO CARES MINISTRIES, INC., CASE NO. 04025-K*, pursuant to Article 224 of the Louisiana Code of Civil Procedure, 863 of the Louisiana Code of Civil Procedure (its predecesor and as amended effective January 1, 1989), and pursuant to 3.1, 3.2, 3.3, and 3.4 of the Supreme Court of Louisiana Rules of Professional Conduct as effective January 1, 1987, and moves this court to find the defendants in this case and their attorney in contempt and order sanctions including, but not limited to, a fine, attorney's fees and costs of plaintiff's counsel.

The following will demonstrate during the past two years, the modus operandi of defendants and their counsel herein has been to harass plaintiff, increase costs of litigation, cause unnecessary delay, hoping to eventually deprive plaintiff, and the real parties in interest, Marvin Gorman and Marvin Gorman Ministries, Inc., their day in court. The motion is directed to all defendants but is focused primarily on the defendants, Jimmy Swaggart, Jimmy Swaggart Ministries, Inc., Frances Swaggart, William Treeby, Michael Indest, Lakeview Christian Center and their attorneys.

FACTS

Marvin Gorman and Marvin Gorman Ministries, Inc. filed suit in March, 1987, naming a number of defendants. The Petition was later amended to allege a conspiracy among the defendants to ruin Marvin Gorman and Marvin Gorman Ministries, Inc.

On April 27, 1987, the defendants, Jimmy Swaggart, Jimmy Swaggart Ministries, Inc., William Treeby, and Don Brankel, through their attorneys of record, filed Exceptions of Improper Cumulation of Action, Misjoinder of Parties, No Right of Action and No Cause of Action. On April 28, 1987, the defendants, Michael Indest and Lakeview Christian Center, through their attorneys, filed Exceptions of Lack of Subject Matter Jurisdiction and Improper Venue, Improper Cumulation of Action, Improper Joinder of Parties, Prematurity and an Exception of No Cause of Action. Although the Stone, Pigman firm was co-counsel for Michael Indest, Lakeview Christian Center and William Treeby, Stone Pigman did not

raise subject matter jurisdiction at this time for Jimmy Swaggart and Jimmy Swaggart Ministries, Inc., William Treeby and Don Brankel.

All remaining defendants subsequently filed their Exceptions asserting in essence the same grounds raised by other defendants.

On May 1, 1987, apparently after a meeting among all counsel for all defendants, Phillip Wittmann of the Stone, Pigman firm mailed a letter to all counsel of record (a copy of May 1, 1987 letter attached as Exhibit No.1). Said letter indicates the positions of the various parties with their insureds and a suggestion to eliminate duplication of efforts since eighty (80%) of the work performed by the Stone, Pigman firm was inuring to the benefit of all the defendants, while only twenty (20%) percent of their effort was directed toward individual defenses. In Paragraph 1 of Page 2 of said letter, counsel for the defendants felt, "beyond our wildest dreams" that the Exceptions that had been filed or would be filed could be sustained.

Shortly thereafter, plaintiffs filed a motion to take video depositions of Jimmy Swaggart and other defendants. An opposition was filed on May 14, 1987. After weeks of arguing, an agreed order was entered on the video depositions stating that the party taking the deposition would pay for the videotapes and also pay for a stenographer present and that the court reporter would be responsible for filing the videotapes with the Clerk of Court within 24 hours of completion of the deposition. The Order did not address audiotapes and the defendants

wrongfully detained the court reporter's audiotapes following Jimmy Swaggart's deposition.[1]

The defendants also acted in bad faith with regard to the Protective Order sought from and entered by this court on June 8, 1987. The defendants indicated that numerous women would be implicated as having adulterous affairs with plaintiff and desired that these women be protected from public exposure of their acts. Plaintiff had admitted to adultery with a single woman. Defendants had indicated in the slanderous and malicious remarks which gave rise to this action that they had signed statements from numerous women who claimed he committed adultery with them. It was for the protection of these women that the Protective Order was entered.

Plaintiff, in preparing his case for trial, naturally has sought through discovery to learn from defendants the identities of this large number of women. The defendants have, however, produced no statements nor identified in the depositions which have been taken a single woman who made a statement claiming that plaintiff committed adultery with her (with the exception of the one to which plaintiff has admitted). The defendants have by such methods obtained a Protective Order upon false representations as to the existence of testimony which has not been full in coming and which has never existed.

In discovery the intent of defendants has become apparent. After spending months defaming plaintiff and accusing him of numerous adulterous relationships to the public, they have sought a Protective Order to keep secret the fact that there was only the one such relationship

which plaintiff had admitted to, thus keeping plaintiff from clearing his name.

On or around May 11, 1987, plaintiffs sent their first Request for Production of Documents and First Set of Interrogatories to all defendants.

On May 15, 1987, at the hearing regularly scheduled by this court on all the Exceptions of the parties, Mr. Peter Feringa showed up at the courtroom with Mr. William Treeby and hand delivered his Supplemental Memorandum on the exceptions of Lack of Subject Matter Jurisdiction, along with a copy of the By-Laws and Constitution of the Assemblies of God and initiated the argument that the information disclosed by the assemblies of God about Marvin Gorman (whether it was true or not), and other ordained ministers including, but not limited to, Michael Indest, William Treeby, Lakeview Christian Center and others was in furtherance of Assemblies of God interpretation of biblical doctrine, particularly Matthew 18, Versuses 15 - 17. Mr. Feringa offered into evidence the By-Laws and Constitution of the Assemblies of God, as well as the annual ordination papers of Reverend Marvin Gorman that Gorman had signed as an Assemblies of God pastor agreeing to abide by the by-laws and constitution of Assemblies of God. However, Mr. Feringa was unable to point to any provision in the By-Laws and Constitution that says that the Assemblies of God believe what he was verbally representing their belief to be, particularly Matthew 18, Versuses 15 - 17. Furthermore, Mr. Feringa argued that an Assembly of God pastor who has moral charges brought against him cannot resign.

On June 8, 1987, this court entered a Judgment denying many of the defendants' Exceptions, but granting the Exception for Lack of Subject Matter Jurisdiction filed by Mr. Peter Feringa in behalf of his clients, Michael Indest and Lakeview Christian Center.

On or around June 10, 1987, the remaining defendants joined in the Exceptions for Lack of Subject Matter Jurisdiction. The court can note on Page 4 of the reply memorandum filed by Stone, Pigman on behalf of Jimmy Swaggart, Jimmy Swaggart, Ministries, Inc., William Treeby and Don Brankel that Matthew 18, Versuses 15 - 17 was represented as authority justifying the actions of the defendants against Marvin Gorman and Marvin Gorman Ministries, Inc.

The movers contend that the defendants and their counsel knew at the time in which these Exceptions were filed that neither the reading nor mailing of their statements were sanctioned by the Assemblies of God and that the argument they were making was proposterous.[2]

On or around August 31, 1987, the court sustained all of the Exceptions for Lack for Subject Matter Jurisdiction filed by the defendants and declared all other Exceptions moot. It was obvious that the court believed the representations of counsel were in good faith, that the wrongful conduct of the defendants towards Marvin Gorman was in furtherance of church doctrine and church beliefs. As indicated hereinabove, the evidence indicates to the exact contrary. The defendants were successful in preventing any discovery depositions taken prior to the court's ruling on the Exceptions.

On or around June 10, 1987, the defendants, Jimmy Swaggart, Jimmy Swaggart Ministries, Inc., William Treeby and Don Brankel, filed a response to the plaintiff's First Set of Interrogatories and on or around June 15, 1987, filed a response to plaintiff's first Request for Production of Documents. Although the defendants have failed to comply with the discovery requests of the plaintiff in a number of instances, those arguments will be reserved later for a Motion to Compel. However, one particular instance that must be addressed in light of the recent ex parte motions requiring plaintiff to post a cost bond is plaintiff's interrogatories propounded to the defendants back in 1987.

Plaintiff's interrogatories asked that the respondents provide names, addresses and telephone numbers of each every individual whom defendants know to have any knowledge of facts or circumstances pertinent to this litigation. This question was also followed by an identical question except limited to witnesses intended to be called at the trial of this case. *In both responses, the defendants, Jimmy Swaggart, Jimmy Swaggart Ministries, Inc., William Treeby and Don Brankel, through their counsel, objected stating that the request was overbroad and then instructed plaintiff to obtain this information through depositions if the plaintiff so desires. As is obvious, the defendants were attempting to escalate expenses, not comply with discovery, contrary to what they represented to the court Thursday morning, January 5, 1989.*

The plaintiff appealed this August 31, 1987 dismissal of the entire case and filed briefs with the Louisiana Court of Appeals for the Fourth Circuit. The defendants responded to plaintiff's appeal and once again argued

what had been argued before the trial court that the defendants' conducts was in furtherance of the Assemblies of God By-Laws and Constitution in interpreting scripture, particularly Matthew 18, 15 - 17. In keeping with the pattern of harassment, Mr. Peter Feringa, counsel for Michael Indest, Lakeview Christian Center and apparently undisclosed counsel for William Treeby filed an Exception of No Right of Action in the Fourth Circuit and hand delivered the undersigned counsel a copy with the memorandum brief 15 minutes prior to oral arguments on March 3, 1987. Counsel's argument was that between the time of dismissal and the time of oral argument, Marvin Gorman and Marvin Gorman Ministries, Inc. had taken bankruptcy and the trustee had not been substituted as the proper party plaintiff. However, the trustee, Mr. David Adler, was present in court having already given instructions to the undersigned to act in his behalf. The Fourth Circuit heard the arguments, the trustee was substituted and Mr. Feringa's Exception was overruled. The Fourth Circuit, on April 22, 1988, reversed and remanded the case to trial. The defendants took writs to the Louisiana Supreme Court and made the same arguments expressed hereinabove. Writs were denied. The defendants, Jimmy Swaggart and Jimmy Swaggart Ministries, Inc., and the defendant, William Treeby, have now filed a Petition for Writ of Certiorari before the United States Supreme Court, making the same argument as made before the trial court, the Fourth Circuit and the Louisiana Supreme Court. (Although the District Court's Protective Order does not have jurisdiction over the United States Supreme Court, in fairness to counsel opposite, the undersigned is putting all defense counsel

on Notice that the transcript of Jimmy Swaggart's deposition and Cecil Janway's deposition will be filed with the United States Supreme Court in conjunction with the Memorandum in Opposition to the Petition for Certiorari and the Motion for Sanctions pursuant to Rule 11 of the Federal Rules of Civil Procedure.)

During the deposition of Jimmy Swaggart, Denise Pilie' provided co-counsel for the plaintiff approximately six or eight documents which were requested in plaintiff's document request which were handed to plaintiff (Reverend Gorman) while the undersigned continued to question Mr. Swaggart. Shortly thereafter, Mr. Wittmann said there was a mistake in the production of these documents in that they had not been stamped "confidential" as required by the court order and asked that they be returned temporarily for stamping during the next break. In the meantime, plaintiff and his attorneys perused the documents and made editorial markings thereon.

During the following break, Mr. Wittmann again asked for the documents so that they could be stamped "confidential." The undersigned delivered the documents to Mr. Wittmann for such purpose who then handed them to Ms. Pilie. Thereupon, Ms. Pilie announced that the documents should never have been produced and then refused to return them, indicating that there was never any intent to get the documents merely to stamp them "confidential." After some discussion and the persistent refusal of Ms. Pilie to return the documents, it was pointed out that certain editorial marks has been made on them and if said papers were not to be returned, they should be destroyed. At this time, Ms. Pilie destroyed the documents.

Later in the deposition, Mr. Wittmann and Ms. Pilie acknowledged that certain of the documents should be produced and produced new copies of them. They refused, however, to produce copies of the remainder of the documents which they had taken back under false pretenses.

On December 20, 1988, during Jimmy Swaggart's deposition, Swaggart's counsel apparently reviewed documents from Cecil Janway's counsel and provided the same to plaintiff's counsel during deposition. The undersigned immediately questioned why these documents, as well as any other documents which would have been responsive to the subpoena duces tecum were not produced in Cecil Janway's deposition on December 15. Counsel for Cecil Janway responded by saying there had not been a call for a production, which was patently false, but obviously of a deliberate intent by the defendants to deprive plaintiff of his discovery, and to delay the litigation and increase the costs of plaintiff's litigation.

On the afternoon of January 4, after counsel for plaintiff, Hunter Lundy, had driven to New Orleans and counsel for plaintiff, Tomy Frasier, had left Tulsa to fly to New Orleans, Hunter Lundy received a call from his office with instructions to call Ross Buckley. On the afternoon of the 4th in New Orleans, Mr. Lundy called Mr. Buckley and was told that Mr. Buckley was filing a Motion for Protective Order as to documents requested and was also told by Mr. Buckley that Peter Feringa had filed a Ex Parte Motion for Cost Bond. Once again, this was just consistent with Mr. Feringa's pattern of not affording the plaintiff's counsel the courtesy of a telephone call, a letter or any indication of his intentions.

CONCLUSION

For each and all the foregoing reasons stated above, plaintiff requests that an order of contempt be issued against the defendants and their counsel and sanctions against the defendants in the amount of FIFTY THOUSAND AND NO/100 ($50,000.00) DOLLARS for the unnecessary time and expenses incurred by plaintiff's counsel in preparing briefs and arguments based upon the Exceptions for Lack of Subject Matter Jurisdiction, Motions for Protective Order, and remaining Exceptions which the defendants' counsel knew themselves to be untrue and without merit. Furthermore, said request of $50,000.00 is for reimbursement of unnecessary expenses and time spent by plaintiff's counsel in travel, delay, and duplication of efforts due to defendants' and their attorneys' conduct, harassment and actions taken for purposes of delay.

Respectfully submitted,

LUNDY & DWIGHT

BY: /s/ Hunter W. Lundy
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing has been forwarded to all counsel of record by depositing a copy of the same in the United States mail, postage prepaid and properly addressed.

Lake Charles, Louisiana, this 9 day of January, 1989.

/s/ Hunter W. Lundy
HUNTER W. LUNDY

PLEASE SERVE:

All defendants through
their attorneys of record

FOOTNOTES

[1] On the completion of the first day of Jimmy Swaggart's testimony, December 20, 1988, the court reporter handed the videotapes and audiotapes to Ms. Denise Pilie' for purposes of safekeeping overnight in the Stone, Pigman safe. Upon commencement of the deposition on December 21, 1988, Ms. Pilie' and Mr. Wittmann advised all parties in the room that audiotapes should not be used over the objection of the court reporter and plaintiff's counsel.

It is represented that there was in excess of 20 lawyers in the room, many of which were talking and objecting at the same time. In many instances, Mr. Swaggart would respond to questions before they were completed and would be talking at the same time as the questioner, his lawyer and others. The court reporter represented that the audiotapes were necessary to confirm an accurate transcript. Contrary to the undersigned's and court reporter's request, Denise Pilie' kept the audiotapes and refused to turn them to the court reporter and instead went and filed them with the clerk. The court reporter's letter objecting to Stone, Pigman's conduct was mailed to Stone, Pigman on December 26, 1988, (copy of which is attached as Exhibit No. 2).

[2] In the deposition of Jimmy Swaggart, taken on December 20 and 21, 1988, the undersigned asked Mr. Swaggart if he authored and mailed the August 20, 1986 statement to which he replied "yes". The undersigned further asked if Mr. Swaggart authored the five-page statement about Marvin Gorman and attached it to his August 20 letter when he mailed it out. The witness replied "yes". When Mr. Swaggart was asked if he had ever made a statement that the reason for disclosing Marvin Gorman's sin was on the basis of scripture taken out of Matthew to disclose the sin to the universal church, his reply was "I have never heard of such a statement." Swaggart went on to say that he did not recall ever having made a statement such as that and that he did not recall anyone ever having made such a statement in his behalf. The undersigned questioned him further and said, "Do you believe it is the proper thing to do to expose your bretheren?" He said "no". Jimmy Swaggart went on to say that his belief was out of Genesis 9,

that it was better to cover the sin of brother than to destroy the work of God. Amusingly, Swaggart said that his August 20, 1986 letter was fulfilling Genesis Chapter 9.

When Mr. Swaggart was asked if he had personally ever disciplined a minister, he said that he had never disciplined a minister. In asking Mr. Swaggart why he wrote the August 20, 1986 letter, his reply was that he saw Jim Bakker and Mama Goodman on the PTL Club talking about the church in New Orleans and how this evangelist, who they did not identify by name, was railroading Marvin Gorman. Apparently, Swaggart's August 20 letter and statement about Marvin Gorman was something Swaggart wrote in defense of something being said on the PTL network; that it was not church discipline and certainly was not in furtherance of scripture out of Matthew.

The deposition of Jimmy Swaggart was noticed for December 20, 1988, in the offices of Stone, Pigman and without a courtesy call from any defense lawyer, the plaintiff's lawyers learned after proceeding to the deposition that Stone, Pigman and Chaffe, McCall had changed the deposition location to the Chaffe, McCall office in the Energy Centre.

On December 15 and 16 of 1988, the undersigned took the deposition of Mr. Cecil Janway, the District Superintendent to the Louisiana District Council of Assemblies of God. The undersigned asked Mr. Janway if a minister is going to be disciplined, does a complaint have to be made against him and Mr. Janway responded, "Right, in writing." In further question, Mr. Janway was asked if he was present in Reverend Gorman's home on July 16, 1986. Janway's response was "correct". The undersigned then asked if that was when Reverend Gorman handed him his fellowship card. The response was "correct". He was asked if that is the night that Reverend Gorman resigned from the church. Mr. Janway's reply was "correct". The undersigned then asked for Mr. Janway to confirm that there had not been a complaint in writing made against Reverend Gorman. His response was correct. He was then asked if Reverend Gorman tendered his resignation on the night of July 16, 1986, and Mr. Janway response was "as a pastor, correct" and that he tendered his fellowship card as a member of the Louisiana District Council and General Council of Assemblies

of God. His response was "correct". Later in the deposition, Mr. Janway tried to turn it a round and say that Reverend Gorman could not resign from the church nor from the Assemblies of God because he made a confession and that he was not sure what he was resigning from and then the undersigned came back and asked if Marvin Gorman did not have a fellowship card with the Assemblies of God, with the General Council and Louisiana District Council, then he could not pastor an Assemblies of God Church, could he? Janway replied, "Well, basically no."

When Janway was asked if he was consulted in any matter with respect to the statement that was read to the First Assembly of God Church on July 20, 1986, Mr. Janway's response was "I don't know." (The July 20 statement will be filed in support of this motion within seven (7) days herein in accordance with the Protective Order since the same was produced for the first time pursuant to discovery.)

In Cecil Janway's deposition, he testified that the First Assembly of God Church in New Orleans invited him and Forrest Hall to attend a church business meeting on September 2, 1986, and to read the statement to the church. Although he refused to agree to it, he did confirm the validity of minutes of a meeting of August 30, 1986 where he, Forrest Hall and Carl Miller, of the First Assembly of God, agreed that they would take their notes and that Carl Miller and Allen McDonnel would take them to Bill Treeby to edit so that it would be most effective for its presentation on the night of September 2, 1986. Cecil Janway testified that his September 2, 1986 statement was drafted after having reviewed the July 20, 1986 statement, the August 20 letter of Jimmy Swaggart with the attached statement about Marvin Gorman, as well as a volume of other correspondence from Michael Indest, etc. Janway also admitted that the September 2 statement contained language extracted verbatum from some of this correspondence. In Cecil Janway's deposition, he indicated the reason they mailed out the September 2, 1986 statement around the country was because people were calling and asking about Reverend Gorman and what was going on in the Assembly of God in New Orleans so therefore, he mailed the September 2, 1986 statement. Nowhere in his deposition did Cecil Janway state that he

mailed it out because he was following the By-Laws and Constitution of the Assemblies of God or because he was following the Assemblies of God's scriptural interpretation of Matthew 18, Versuses 15 - 17. (The undersigned counsel is putting all counsel on notice that the portion of the transcript of the deposition of Jimmy Swaggart which is available will be filed in the record along with Cecil Janway's deposition within seven (7) days in accordance with this Court's Protective Order.)

EXHIBIT NO. 1

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ELLEN C. CONWILL
BARRY W. ASHE
GEORGE C. FREEMAN, III
MARJORIE NIESET NEUFE
JOSEPH L. CAVERLY
UISDEAN R. VASS

OUR FILE NUMBER
34,615

*A Professional Corporation

To: All Counsel of Record
Re: Marvin Gorman and Marvin Gorman Ministries, Inc. v. Jimmy Swaggart, et al.

Dear Ladies and Gentlemen:

We had agreed to make a recommendation to our defense group regarding the allocation of costs and expenses, including legal fees, incurred in this case. As you know, we have seven separate insurers, insuring fifteen separate defendants, with some insurers having as many as eight separate insureds. At present we are appearing as co-counsel with Martin Hunley for the Reverend Jimmy Swaggart, Jimmy Swaggart Ministries, Don Brankel and Bill Treeby. We are also acting as co-counsel with Pete Feringa's firm for Lakeview Christian Center, Bill Treeby, and Mike Indest.

USF&G has the largest number of individual insureds and at the moment has three separate law firms defending this case. Jim Murphy is representing the Louisiana District Council of the Assemblies of God, Inc. and Cecil Janway. Wood Brown is representing The First Assembly of God. Waldo Risner and Allan McDonnel, and Pete Feringa is representing Lakeview Christian Center, Mike Indest and Bill Treeby.

Preferred Risk, represented Larry Mann, insures Canal Street Assembly of God and Tom Miller; Jerry Weigel is representing the General Counsel of Assembly of God and the Reverend Carlson through his client, Liberty Mutual. We are all trying to avoid getting in each other's way, and, as I mentioned at our earlier meetings, we have no interest in interfering with anyone's attorney/client relationship with any insurance carrier. However, we have been requested to represent a number of

the individual defendants and are doing so now in the instances enumerated above. Unavoidably a great deal of our work is inuring to the benefit of all and we think it is appropriate to provide for an allocation of joint defense costs among the various insurers in this case. We have a number of depositions already scheduled and more will undoubtedly be forthcoming (unless our exceptions are successful beyond our wildest dreams) and the discovery requests made so far by the plaintiff's attorneys indicate that they are prepared to do a little work as well.

While it is difficult to come up with a precise formula for sharing of costs and fees, I do believe that it will be in the best interests of all of the defendants to allow our firm to assume the laboring oar and for each of the insurers to pick up a portion of the expenses that would otherwise be borne solely by Bill Treeby's insurers. In this way, individual counsel for the insurers could supervise and review what is being done in the joint defense, while reserving any individual defenses they may wish to pursue at their own expense. With the number of insurers involved, the allocation of joint defense costs will not be that burdensome as to any one company.

It seems to me that probably 80% of the work that we are doing will inure to the benefit of all defendants, while only 20% of our effort be directed toward individual defenses. What I suggest is that the 80% be divided seven ways among USF&G, St. Paul, ALAS, Liberty Mutual, Preferred Risk, State Farm, and Aetna. This will mean that each insurer will pay about 11½% of the joint defense fees.

The only other way to proceed it seems to me would be to divide the cases among the various attorneys individually so that one firm will handle certain depositions, while another firm handled other depositions, interrogatories, etc. However, the case really isn't big enough to warrant that approach and I think that approach will be more costly and less effective than an agreement along the lines that I am suggesting.

If anyone is uncomfortable with our firm assuming the lead role, we would be perfectly happy to have one of the other lawyers in our group assume the role as lead counsel, with us assuming a secondary role on behalf of our individual clients, provided the clients don't object. In those cases in which insurers have reserved their rights, the clients have expressed a desire to have this firm represent them. The point is, that all of us cannot defend this case all of the time without having the defense costs exceed any verdict that could reasonably be anticipated.

Please give this matter your prompt attention and be prepared to discuss it at our next meeting.

With kindest regards, I remain

Sincerely,

/s/ Phil Wittmann
Of STONE, PIGMAN, WALTHER,
WITTMANN & HUTCHINSON

PAW/ker

SOUTHWEST REPORTERS
P O BOX 3226
420 PUJO STREET (70601)
LAKE CHARLES, LA 70602-3226
318/433 5672

EXHIBIT NO. 2

DECEMBER 26, 1988

DENISE PILIE' &/or PHILLIP WHITTMANN
STONE, PIGMAN FIRM
546 CARONDELET STREET
NEW ORLEANS, LA 70130-6097

RE: GORMAN VS SWAGGART

Dear Mr. Whittmann &/or Ms. Pilie',

This correspondence will serve to confirm our anticipated conversation of December 27, 1988 as I expect to make the call to further confirm this letter and reiterate our earlier request for the audio tapes in Reverand Swaggart's deposition.

As explained, the audio tapes are to be used by the reporter in proofing the transcript portion of the deposition. The audio tape is simply a tool to ensure an accurate translation of the testimony given during the deposition.

Upon receipt of same, we will commence transcribing the deposition.

For the record I feel the necessity to state that I am extremely disappointed in the manner which the tapes were obtained. We were advised that the tapes would be put in your safe for the evening for "safekeeping". The tapes were not returned the following day.

As an officer of the court, our sole interest is to provide all parties with a verbatim record as we have absolutely no interest in the ultimate outcome of this case.

We have executed a none-disclosure statement at your request and we fully intend to abide by same. I requested a copy of the executed statement at the time of signing same; however, this has not been provided to us at the time of this writing.

Your earliest attention to this request will be greatly appreciated.

Yours Truly,

/s/ Nat Douget
NATHAN DOUGET
Certified Shorthand Reporter
Legal Video Technician

Mr. Hunter W. Lundy
Lundy and Dwight
One Lakeside Plaza
Lake Charles, LA 70601

cc: All counsel of record (please see attached)

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO. 87-5289 DIVISION "K" DOCKET NO.

DAVID V. ADLER, TRUSTEE IN BANKRUPTCY, *IN THE MATTER OF MARVIN E. GORMAN AND VIRGINIA A. GORMAN, CASE NO. 04024-K* AND *IN THE MATTER OF MARVIN GORMAN MINISTRIES, INC., FORMERLY WHO CARES MINISTRIES, INC., CASE NO. 04025-K*

VERSUS

JIMMY SWAGGART AND
JIMMY SWAGGART MINISTRIES, INC., ET AL

FILED:_____ _____
DEPUTY CLERK

STATE OF LOUISIANA

PARISH OF CALCASIEU

AFFIDAVIT

BEFORE ME, the undersigned Notary Public, duly commissioned and qualified in and for the aforementioned state and parish, did personally appear, HUNTER W. LUNDY, who, after being duly sworn, did depose and say that:

He is co-counsel of record for David Adler, Marvin Gorman and Marvin Gorman Ministries, Inc.;

He, in conjunction with co-counsel, drafted the Motion for Contempt and/or Sanctions and the Memorandum in Support thereof; and

He is attorney for the plaintiff that questioned the defendants, Cecil Janway and Jimmy Swaggart, on December 15 and 16, 1988, and December 20 and 21, 1988, respectively and that the statements made with respect to their testimony in the Motion for Contempt and/or for Sanctions and in the Memorandum Brief in Support thereof are true to the best of his memory, knowledge and belief, as well as the allegations made in the Motion and Memorandum.

/s/ Hunter W. Lundy
HUNTER W. LUNDY

SWORN TO AND SUBSCRIBED before me, Notary, this 9 day of January, 1989, at Lake Charles, Louisiana.

/s/ David F. Dwight
NOTARY PUBLIC

CIVIL DISTRICT COURT FOR THE
PARISH OF ORLEANS

STATE OF LOUISIANA

NO. 87-5289 DIVISION "K" DOCKET NO.

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VERSUS

JIMMY SWAGGART AND
JIMMY SWAGGART MINISTRIES, INC., ET AL

FILED:_____ _____
DEPUTY CLERK

MEMORANDUM BRIEF IN SUPPORT OF MOTION FOR CONTEMPT AND/OR FOR SANCTIONS

(Filed January 10, 1989)

Article 224 of the Louisiana Code of Civil Procedure reads in part:

> A constructive contempt of court is any contempt other than a direct one. Any of the following acts constitutes a constructive contempt of court:
>
> (2) willful disobedience of any lawful judgment, order, mandate, writ or process of the court;
>
> (4) deceit or abuse of the process or procedure of the court by a party to an action or proceeding or by his attorney; and
>
> (10) any other act or omission punishable by law as a contempt of court or intended to obstruct or interfere with the orderly administration of justice, or to impair the dignity of the court or respect for its authority, and which is not a direct contempt.

Prior to January 1, 1989, Article 863 of the Louisiana Code of Civil Procedure read as follows:

> Every pleading of a party represented by an attorney shall be signed by at least one attorney of record in his individual name, whose address shall be stated. Any party that is not represented by an attorney shall sign his pleadings and state his address.
>
> Pleadings need not be verified, or accompanied by affidavit or certificate, except as otherwise provided by law, but the signature of an attorney constitutes a certificate by him that he has read the pleadings; that to the best of his knowledge, information and belief, there is good ground to support it; and that it is not interposed for delay.

Article 863 as amended effective January 1, 1989, reads in part as follows:

> (b) Pleadings need not be verified or accompanied by affidavit or certificate, except as otherwise provided by law, but the signature of an attorney or party shall constitute a certification by him that he has read the pleading; that to the best of his knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact; that it is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law; and that it is not interposed for an improper purpose, such as to harass or to cause unnecesary delay or needless increase in the cost of litigation.
>
> (d) If, upon motion of any party or upon its own motion, the court determines that a certification has been made in violation of the provisions of this Article, the court shall impose upon the person who made the certification or the represented party, or both, an appropriate sanction which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the

filing of the pleading, including a reasonable attorney's fees.

Article 3.1 of Louisiana Supreme Court Rules of Professional Conduct, effective January 1, 1989, reads as follows:

Rule 3.1 Meritorious Claims and Contentions

A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis for doing so in good faith, which includes a good faith argument for an extension, modification or reversal of existing law. A lawyer for the defendant in a criminal proceeding, or the respondent in a proceeding that could result in incarceration, may nevertheless so defend the proceedings as to require that every element of the case be established.

Article 3.2 reads as follows:

Rule 3.2 Expediting Litigation

A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.

Article 3.3 reads as follows:

Rule 3.3 Candor Toward the Tribunal

(a) A lawyer shall not knowingly:

(1) make a false statement of material fact or law to a tribunal;

(2) conceal or knowingly fail to disclose that which he is required by law to reveal; however, if a lawyer discovers that his client has perpetrated a fraud on a tribunal, shall promptly call on his client to rectify same and, if the client shall refuse to do so or be unable to do so, the lawyer shall reveal the fraud to the affected person or tribunal;

(3) fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to

be directly adverse to the position of the client and not disclosed by opposing counsel; or

(4) offer evidence that the lawyer knows to be false. If a lawyer has offered material evidence and comes to know of its falsity, the lawyer shall take reasonable remedial measures.

(b) The duties stated in paragraph (a)(1) and (3) continue to the end of the hearing or proceeding. The duties stated in paragraph (a)(2) and (4) are limited in time and are subject to the provisions of Rule 1.6.

(c) A lawyer may refuse to offer evidence that the lawyer reasonably believes is false.

(d) In an ex parte proceeding, a lawyer shall inform the tribunal of all material facts known to the lawyer which will enable the tribunal to make an informed decision, whether or not the facts are adverse.

Article 3.4 reads as follows:

Rule 3.4 Fairness to Opposing Party and Counsel

A lawyer shall not:

(a) unlawfully obstruct another party's access to evidence or unlawfully alter, destroy or conceal a document or other material having potential evidentiary value. A lawyer shall not counsel or assist another person to do any such act;

(b) falsify evidence, counsel or assist a witness to testify falsely, or offer an inducement to a witness that is prohibited by law;

(c) knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists;

(d) in pretrial procedure, make a frivolous discovery request or fail to make reasonably diligent effort to comply with a legally proper discovery request by an opposing party;

(e) in trial, allude to any matter that the lawyer does not reasonably believe is relevant or that will not be supported by admissible evidence, assert personal knowledge of facts in issue except when testifying as a witness, or state a personal opinion as to the justness of a cause, the crediblity of a witness, the culpability of a civil litigant or the guilt or innocence of an accused; or

(f) request a person other than a client to refrain from voluntarily giving relevant information to another party unless:

(1) the person is a relative or an employee or other agent of a client; and

(2) the lawyer reasonably believes that the person's interests will not be adversely affected by refraining from giving such information.

As better stated in the Motion and attachments, as well as revealed by the record itself, the defendants filed a volume of Exceptions in this case which apparently by Mr. Wittmann's letter of March 1, 1987, defendant's counsel discussed before filing the same. Beyond their "wildest dreams" did defense counsel believe the court would sustain the majority of Exceptions. The Matthew 18 theory was derived by Treeby and Indest shortly before the morning of the court's hearing on the Exceptions on July 15, 1987, and the court accepting counsel's representations in good faith felt that there was not subject matter jurisdiction. Shortly thereafter, all the defendants followed with the same argument, knowing at all time that there was no Assemblies of God belief that this was their obligation and that their conduct was in furtherance of their scriptural belief. As indicated in the deposition of Cecil Janway, he mailed out letters to answer questions. As indicated in Jimmy Swaggart's deposition, he knew

nothing about Matthew 18 and his philosophy was to cover the sin of brother rather than disclose it. However, as the court can take judicial notice, Jimmy Swaggart did not even follow his own philosophy in this case.

Accordingly, the defendants have violated Article 863 of the Louisiana Code of Civil Procedure, as well as Rules 3.1 and 3.3 of the Louisiana Supreme Court Rules of Professional Conduct is misleading the court and/or concealing their clients' true beliefs.

Mr. Peter Feringa of the Chaffe, McCall firm has repeatedly made attempts at the last minutes during proceedings in the trial court, the Fourth Circuit Court of Appeals, depositions after great expenses have been incurred by all parties, particularly the plaintiff, to delay the proceedings, to harass the plaintiff and to cause unnecessary delay and needless increase in the cost of this litigation. Furthermore, Mr. Feringa had the audacity to file an *ex parte* motion for the plaintiff to post a security bond on the eve of Mr. Treeby's deposition and just two weeks prior to his client's, Micheal Indest, deposition and tell the court a bond is needed because of the extreme expense plaintiff is causing defense counsel. All of such actions take in the eleventh hour by Mr. Peter Feringa of Chaffe, McCall without so much as the courtesy of a telephone call to either of plaintiff's counsel so that the matter could be discussed in a effort to eliminate unnecessary costs and expenses. The court can only assume, however, since Stone, Pigman's firm is co-counsel for Michael Indest, Lakeview Christian Center and William Treeby, that they are also a party to these devious actions. Moreover, as indicated in the Motion, defendants

have objected to discovery, failed to comply with discovery, and made every effort possible to increase the cost of litigation to plaintiff. It was obvious in the conference with the court on January 5, 1989, that defense counsel wants each deposition to be completed to force plaintiff to file motions to compel for each individual party defendant. The above described conduct all has been in violation of Article 863 of the Louisiana Code of Civil Procedure, Article 224 of the Louisiana Code of Civil Procedure and Rules 3.1, 3.2, 3.3 and 3.4 of Louisiana Supreme Court Rules on Professional Conduct.

For each and all the foregoing reasons, plaintiff respectfully requests this court to award plaintiff's reasonable attorney's fees and costs in the amount of FIFTY THOUSAND AND NO/100 ($50,000.00) DOLLARS for having to defend frivolous exceptions, motions, and duplicate efforts for discovery as a result of the above conduct.

Respectfully submitted,

Lundy & Dwight
BY: Hunter W. Lundy
HUNTER W. LUNDY
P. O. Box 3009
Lake Charles, LA 70602
(318) 439-0707

Tomy Dee Frasier
Frasier & Frasier
1700 S.W. Boulevard
Tulsa, Oklahoma 74101
(908) 584-4724

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing has been forwarded to all counsel of record by depositing a copy of the same in the United States mail, postage prepaid and properly addressed.

Lake Charles, Louisiana, this 9 day of January, 1989.

/s/ Hunter W. Lundy
HUNTER W. LUNDY

012

Please Serve:

All defendants through their
attorneys of record

CIVIL DISTRICT COURT FOR THE
PARISH OF ORLEANS

STATE OF LOUISIANA

NO. 87-5289 DIVISION "K" DOCKET NO.

DAVID V. ADLER, TRUSTEE IN BANKRUPTCY, *IN THE MATTER OF MARVIN E. GORMAN AND VIRGINIA A. GORMAN, CASE NO. 04024-K* AND *IN THE MATTER OF MARVIN GORMAN MINISTRIES, INC., FORMERLY WHO CARES MINISTRIES, INC., CASE NO. 04025-K*

VERSUS

JIMMY SWAGGART AND
JIMMY SWAGGART MINISTRIES, INC., ET AL

FILED:_____ _____
DEPUTY CLERK

ORDER

(Filed January 10, 1989)

IT IS HEREBY ORDERED that defendants in the above captioned matter appear on the ___ day of ___, 1989, at ___ o'clock ___.m. to show cause why plaintiff's Motion for Contempt and/or for Sanctions should not be sustained.

SO ORDERED this ___ day of ___, 1989, at New Orleans, Louisiana.

_____
RICHARD J. GANUCHEAU
District Judge

Please Serve:

All defendants through
their attorneys of record

013

No. 88-1080 (3)

Supreme Court, U.S.
FILED
FEB 10 1989
JOSEPH F. SPANIOL, JR.
CLERK

In The

Supreme Court of the United States

October Term, 1988

JIMMY SWAGGART, FRANCES SWAGGART, JIMMY SWAGGART MINISTRIES, INC., WILLIAM D. TREEBY, THE FIRST ASSEMBLY OF GOD CHURCH OF NEW ORLEANS, LOUISIANA, INC., LOUISIANA DISTRICT COUNCIL OF THE ASSEMBLIES OF GOD, INC., THE GENERAL COUNCIL OF THE ASSEMBLIES OF GOD, LAKEVIEW CHRISTIAN CENTER, CANAL ST. ASSEMBLY OF GOD, INC., MICHAEL INDEST, TOM MILLER, CECIL JANWAY, G. RAYMOND CARLSON, WALDO RISNER, ALLAN MCDONNEL and FORREST HALL

VERSUS

DAVID V. ADLER, TRUSTEE IN BANKRUPTCY, IN THE MATTER OF MARVIN E. GORMAN AND VIRGINIA A. GORMAN, NO. 04024-K, AND IN THE MATTER OF MARVIN GORMAN MINISTRIES, INC. FORMERLY WHO CARES MINISTRIES, INC. NO. 04025-K.

On Petition For Writ Of Certiorari To The Supreme Court For The State Of Louisiana

REPLY BRIEF SUBMITTED ON BEHALF OF JIMMY SWAGGART AND JIMMY SWAGGART MINISTRIES

PHILLIP A. WITTMANN
WAYNE J. LEE
DENISE M. PILIE'
Of
STONE, PIGMAN, WALTHER,
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OR CALL COLLECT (402) 342-2831

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REPLY BRIEF SUBMITTED ON BEHALF OF JIMMY SWAGGART AND JIMMY SWAGGART MINISTRIES

The Petitioners' Brief in Support of the Petition for a Writ of Certiorari demonstrates that the decision by the Fourth Circuit Court of Appeals for the State of Louisiana ("lower court") to reverse the district court's dismissal of this case was improper for several reasons. The decision of the lower court impermissibly interferes with the doctrine of the Assemblies of God ("AG"), contradicts the precedent set by this Court and by a federal appellate court and needlessly jeopardizes the privacy rights of third parties. Respondents have not successfully refuted any of these arguments.

Petitioners, Jimmy Swaggart and Jimmy Swaggart Ministries, respectfully submit this Brief in reply to the two arguments that were made in the Respondents' Brief in Opposition to the Petition for Certiorari ("Opposition Brief"). First, this Brief will demonstrate that respondents' attempt to characterize this suit as a secular matter is misguided. Second, this Brief will demonstrate that the Motion for Contempt and/or Sanctions ("Contempt Motion") is wholly irrelevant to the proceeding in this Court. Respondents' objections to the granting of the writ of certiorari are meritless. This Court should grant the writ to review the serious threat to petitioners' First Amendment rights that this suit represents.

ARGUMENT

A. Respondents' Attempts to Characterize This Lawsuit As A Secular Matter Are Misguided.

Respondents contend that this suit is a secular matter in order to bring it within the jurisdiction of civil courts.

They attempt to remove this dispute from an ecclesiastical setting by arguing that Gorman is not appealing his *dismissal* from the AG Church. They also argue that certain testimony allegedly taken from Rev. Swaggart's deposition demonstrates that his actions were not scripturally based. Finally, they argue that petitioners' actions are not protected by the First Amendment even if those actions were taken in furtherance of church doctrine. Each of these arguments is misguided.

Respondents' argument that this matter falls outside of the ecclesiastical setting because Gorman is not disputing his *dismissal* from the AG Church misses the point. Petitioners' recognize that Gorman is not disputing his dismissal; Gorman is, however, bitterly disputing *the disciplinary process* that was followed in connection with his dismissal. That entire *disciplinary process* is protected by the First Amendment, not just that portion of the process that resulted in his dismissal. Because the actions allegedly taken by petitioners all related to *that process*, those actions are beyond the review of the civil courts. Therefore, this court should grant a writ of certiorari to review the lower court's decision which permits this controversy to be tried in state court.

Respondents efforts to distinguish the cases cited by petitioners are equally misplaced. Respondents argue that *Hutchinson v. Thomas*, 789 F.2d 392 (6th Cir.), *cert. denied*, 479 U.S. 885, 107 S.Ct. 277, 93 L.Ed.2d 253 (1986) is inapposite to this lawsuit because the *Hutchinson* plaintiff challenged his *dismissal* and Gorman does not. This mischaracterization of the *Hutchinson* plaintiff's claim fails to consider that he also sued his church hierarchy and elders for damages arising from the defamation and intentional infliction of emotional distress in which he

claims the elders engaged *during* the dismissal process. *Id.* at 393. The *Hutchinson* court upheld the dismissal of this claim on jurisdictional grounds in spite of the fact that the plaintiff challenged not only his dismissal, but also claimed he had been defamed and otherwise harmed by the tortious conduct of the church elders. Because this is the exact conduct about which Gorman complains, the *Hutchinson* decision is entirely applicable to this case.

Respondents' argument that testimony allegedly taken from Rev. Swaggart's deposition[1] demonstrates that this controversy is secular in nature is also unfounded. In that argument, respondents allege that Jimmy Swaggart testified in his deposition that Genesis 9 provided guidance regarding the proper action to be taken when one is confronted with the sin of a brother. According to respondents, this contradicts the statements made by Rev. Swaggart's attorneys and other defense counsel that the AG disciplinary process was based, in part, on Matthew 18. Therefore, according to the respondents, the actions taken by defendants were not based on scripture and civil courts do have jurisdiction over this claim.

The very fact that the respondents are asking this Court to compare Matthew 18 with Genesis 9 demonstrates that this controversy does not belong in the civil courts. Even if civil courts were qualified to examine

---

[1] Petitioners object to the mischaracterization of Rev. Swaggart's testimony in Respondents' Opposition Brief and their Contempt Motion. However, as the dissemination of deposition testimony is governed by the protective order issued by the district court on June 8, 1987, petitioners will not correct those mischaracterizations in this Brief. See *infra*, p. 6, n.1.

these two passages from scripture and to determine which provided the basis for Rev. Swaggart's alleged actions, those courts would be constitutionally prohibited from doing so. Instead of proving that this case is secular in nature, respondents' mischaracterization of Rev. Swaggart's testimony demonstrates that this case is an ecclesiastical matter over which civil courts cannot constitutionally exercise subject matter jurisdiction.

Respondents also argue "that even if defendants acted in furtherance of their religious belief, . . . the same is not protected by the United States Constitution nor [sic] the Louisiana Constitution." Opposition Brief, p. 7. According to respondents, the fact that "an individual cannot batter or kill another with immunity from prosecution believing his/her actions to be a religious obligation" means that an individual also cannot follow the church disciplinary process with impunity if that process requires church leaders to make certain statements viewed to be defamatory by the one being disciplined. Respondents cite *Reynolds v. United States*, 98 U.S. 244 (1879) to support their argument.

The *Reynolds* case does not control the case at bar. In *Reynolds*, this Court held that the First Amendment did not protect a Mormon from prosecution under criminal laws proscribing polygamy on the ground that polygamy was required by the Mormon religion. The Court traced the fact that polygamy had "always been odious among the Northern and Western nations of Europe", 98 U.S. at 250; and that "from the earliest history of England polygamy has been treated as an offense *against society*." *Id.* (Emphasis added). The Court then traced the history of this nation and concluded:

> "[T]here never has been a time in any State of the Union when polygamy has not been an offense *against society*, cognizable by the civil courts and punishable with more or less severity. *In the face of all this evidence, it is impossible to believe that the constitutional guarantee of religious freedom was intended to prohibit legislation in respect to this most important feature of social life.*"

Id.

The conduct about which respondents complain does not constitute an offense against society that interferes with a "most important feature of social life." Instead, the conduct about which they complain affects them and them alone. Although the state may have a legitimate interest in regulating allegedly tortious conduct of its citizens, the state interest advanced by regulating defamation claims cannot be said to rise to a level of the highest order. Since "only those interests of the highest order and those not otherwise served can overbalance legitimate claims to the free exercise of religion," *Wisconsin v. Yoder*, 406 U.S. 205, 216, 92 S. Ct. 1526, 1533, 32 L.Ed.2d 15, 25 (1972), this Court should grant a writ of certiorari to insure that petitioners' First Amendment rights are properly protected in this instance.

B. Respondents' Motion for Contempt and/or Sanctions Is Wholly Irrelevant To The Proceeding In This Court.

Throughout their Opposition Brief, respondents refer this Court to the arguments made in the Contempt Motion which was filed in the Louisiana district court on January 10, 1989, sixteen months after the first exceptions were filed in this proceeding. In their Contempt Motion,

plaintiffs argue that defendants should be held in contempt or sanctioned for such grievous tactics as filing exceptions, moving the court for a protective order,[2] and objecting to discovery requests. Respondents rely on this motion to support several arguments in their Brief, including the following: (1) that "plaintiffs are not seeking civil review of an ecclesiastical matter", Opposition Brief, p. 4; (2) that "the 'Universal Church' Argument is Fictitious," *id.* at p. 6; (3) that the petitioners applied for the protective order in bad faith, *id.* at p. 9; (4) and that Rule 11 sanctions should be granted by this Court against the defendants. *Id.* at pp. 9-10.

Respondents' reliance on their Contempt Motion is inappropriate for several reasons. First, the Contempt

---

[2] On June 8, 1987, the district court granted a protective order which protected from disclosure to the public and the press certain information gained through discovery. The protective order is reprinted at page 2 of the Appendix to this Reply Brief. At a later date, a second protective order was entered to provide for the taking of video depositions and for the sealing of the video tapes in the court record after the deposition is taken. That protective order is reprinted at page 6 of the Appendix to this Reply Brief. Although neither of these orders has any bearing on the merits of this writ application, the terms of the June 8, 1987 protective order call into question the propriety of respondents' disclosure in the public record of testimony allegedly taken in discovery depositions. Because the protective order prohibits such disclosure unless the procedure outlined in the protective order is followed (which procedure was not followed in this instance), the disclosure of that testimony violates the order. Moreover, since the depositions were taken long after the exceptions in this case were filed, the mischaracterization of that testimony in the Contempt Motion cannot properly be considered by this Court.

Motion was not a part of the record on the appeal of the exception of lack of subject matter jurisdiction. The Contempt Motion was filed on January 10, 1989. The exception was filed and sustained in 1987. Anything that occurred in this litigation after that time is not properly considered by this Court.

Second, the Contempt Motion is set for hearing in the district court on April 15, 1989. Any action taken by this Court before the record is developed in the Court below would be premature.

Third, any request for sanctions in this Court is totally unwarranted because the authority on which petitioners rely is not applicable to this Court. Rule 11 of the Federal Rules of Civil Procedure applies only to proceedings in United States district courts, not to proceedings filed in this Court. Rule 1, Fed. Rules of Civ. Pro. Therefore, this Court should not consider granting sanctions pursuant to this rule on any grounds, and especially not on the utterly spurious grounds outlined in the Contempt Motion.

Respondents' argument that their Contempt Motion refutes petitioners' argument that the Universal Church encompasses the church of all Christians is also totally unfounded. First, the Motion for Contempt does not address the Universal Church argument at all; second, even the respondents' mischaracterizations of Rev. Swaggart's testimony in the Contempt Motion do not address that subject; and third, contrary to respondents' implications, the Universal Church "argument" was not invented by the defendants in this case, but is based on a published fundamental truth of the AG church. Petitioners'

Brief in Support, App. 153, AG Constitution, Statement of Fundamental Truths. By referring *only* to the Contempt Motion to refute petitioners' reliance on the Universal Church concept, respondents have demonstrated that they have no arguments to refute that concept at all.

Respondents' Motion for Contempt has no bearing on this writ application. Moreover, Rule 11 of the Federal Rules of Civil Procedure has no bearing on this Court. Therefore, this Court should ignore respondents' references to its Contempt Motion and their request that Rule 11 sanctions be granted in this Court.

CONCLUSION

Respondents arguments that this matter is secular in nature and therefore within the jurisdiction of this court are misguided and incorrect. Petitioners have demonstrated the threat to their constitutional rights posed by this case. Conversely, respondents have demonstrated no valid reason why civil courts should exercise jurisdiction over this claim. Accordingly, this Court should grant a writ of certiorari to prevent the serious incursion on

petitioners' civil rights that will occur if this case proceeds to trial in a court of improper jurisdiction.

Respectfully submitted,

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CIVIL DISTRICT COURT FOR
THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO. 87-5289 DIVISION "K"

MARVIN GORMAN, ET AL

VERSUS

JIMMY SWAGGART, ET AL

JUDGMENT

This matter came for hearing on Exceptions filed by several defendants and a Motion for Protective Order filed herein on behalf of defendants, Jimmy Swaggart, Jimmy Swaggart Ministries, Inc. and William D. Treeby:

After considering the pleadings, the argument of Counsel and the law:

IT IS ORDERED, ADJUDGED AND DECREED that the Exceptions of No Right or Cause of Action filed herein on behalf defendants, Michael Indest, Lakeview Christian Center, Jimmy Swaggart, Jimmy Swaggart Ministries, Inc., William D. Treeby, Don Brankel, Cecil Janway, Louisiana District Council of the Assemblies of God, Inc., The First Assembly of God Church, Inc., Waldo Risner, Allen McDonnell, Tom Miller, Canal Street Assembly of God, Inc. to the Petition filed herein on behalf of Marvin Gorman Ministries, Inc. be, and the same are hereby maintained and therefore the Petition filed herein on behalf of Marvin Gorman Ministries, Inc. is hereby dismissed.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Exceptions of Lack of Subject Matter Jurisdiction filed herein on behalf The General Council of

the Assemblies of God, Michael Indest and Lakeview Christian Center be, and the same are hereby maintained and therefore these proceedings are hereby dismissed as to those defendants.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all other Exceptions urged by defendants Jimmy Swaggart, Jimmy Swaggart Ministries Inc., William D. Treeby, Don Brankel, Cecil Janway, Louisiana District Council of the Assemblies of God, Inc., The First Assembly of God Church, Inc., Waldo Risner, Allen McDonnell, Tom Miller, Canal Street Assembly of God, Inc. be, and the same are hereby overruled. Defendants herein have fifteen days within which to file responsive pleadings.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that a Protective Order Issue herein and therefore;

IT IS ORDERED that:

1. All discovery requests, including deposition notices of non-party witnesses, document requests, interrogatories, and other applications for discovery and/or responses thereto and contents thereof, shall not be filed in the record except as authorized herein and shall be furnished only to attorneys of record, parties and the persons to whom the respective discovery requests are directed unless further distribution is authorized by subsequent order of this Court. The Clerk of Court, upon presentation of a signed deposition notice not filed in the record, shall issue a deposition subpoena to the party requesting same; the party requesting issuance of the deposition subpoena is hereby authorized to and shall

employ a private person, not a party to these proceedings, to serve the deposition subpoena; and after service of the deposition subpoena is made, the party shall retain the return of service in its possession and shall not file the return of service into the record except as authorized in this order;

2. Any documents produced in discovery in connection with this case shall be stamped "Confidential; Subject to Protective Order entered in Civil Action No. 87-5289, Civil District Court for the Parish of Orleans" and shall be numbered sequentially by the party producing same with a suitable prefix to denote its orgin [sic];

3. Depositions in this proceeding shall be closed with attendance limited to court reporters, parties, attorneys of record, witnesses and attorneys of the witnesses;

4. Subject to the provisions of paragraph 5, depositions and deposition exhibits shall be sealed and all copies retained by parties and their attorneys, or by witnesses and their attorneys, and shall be used solely in connection with this litigation and shall not be distributed or publicized except as authorized in this order;

5. In the event that any pleadings or documents utilizing or arising from pretrial discovery (including but not limited to depositions and deposition exhibits, exhibits and answers to interrogatories, and motions to compel discovery) (hereinafter collectively referred to as "Filed Materials") are to be filed in this proceedings by any party:

(a) Such Filed Materials will be distributed to and received by all counsel of record at least seven days

prior to the date of filing, along with notification that the distributing party intends to file the Filed Materials on a specified date;

(b) Any party to the proceeding shall then be entitled to file a motion to seal the Filed Materials and/or to close any hearing that may be held on the Filed Materials. Pending the determination on the motion to seal and/or to close the hearing on the Filed Materials, the Filed Materials shall be filed under seal. The temporary filing of the Filed Materials under seal shall not alter the burden of justifying the sealing or closure as provided for by applicable law;

(c) In the event that any party files a motion to seal Filed Materials or to close a hearing on Filed Materials or any other hearing, that party shall notice such motion for hearing and serve all counsel of record and the attorney for the intervenors, who will be provided with reasonable advance notice of the hearing and shall be afforded an opportunity to appear and oppose the motion to seal the Filed Materials and/or close the hearing on the Filed Materials or any other hearing;

(d) In the event that any party files a motion to seal Filed Materials or to close a hearing on Filed Materials or any other hearing, that party shall do so in accordance with the order of this Court dated May 15, 1987.

6. Each of the parties, their attorneys, agents and representatives, shall make no use of and shall not disseminate, distribute or publicize the documents or information described in paragraphs 1-5 that are gained through discovery, other than such use as is necessary in

order for the discovering party to prepare and try the case, and other than such disclosure as may occur in the public record or in public proceedings in this matter in conformity with this order. Unless disclosed in the public record or public proceedings in this matter in conformity with this order, information gained by a party through the discovery process may not be published by any of the parties or made available to any news media for publication or dissemination. This protective order has no application except to information gained by the parties through the use of the discovery process. The restrictions in this paragraph do not apply to Intervenors, their attorneys, agents and representatives.

JUDGMENT READ, RENDERED AND SIGNED this 8th day of June, 1987 at New Orleans, Louisiana.

/s/ Richard J. Ganucheau
JUDGE

CIVIL DISTRICT COURT FOR
THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO. 87-5289 DIVISION "K"

MARVIN GORMAN, ET AL

VERSUS

JIMMY SWAGGART, ET AL

CONSENT ORDER
(Filed July 23, 1987)

Appearances - Phillip A. Wittmann
Denise M. Pilie'
Deborah Cunningham Forshee for Jimmy Swaggart, Jimmy Swaggart Ministries, Inc., William D. Treeby and Don Brankel

James C. Murphy, Jr. for
Cecil Janway and the Louisiana District Council for the Assemblies of God, Inc.

Quentin Urquhart for
Waldo Risner and First Assembly of God Church of New Orleans

Lawrence Mann for
Tom Miller and Canal Street Assembly of God, Inc.

David Bourgeois for
Allan McDonnel

Thomas D. Frasier
Hunter W. Lundy for
Marvin Gorman and Marvin Gorman Ministries, Inc.

ORDER

This matter came for hearing on Motions to Recall the Order Permitting the use of Video Depositions filed

by Jimmy Swaggart, Jimmy Swaggart Ministries, Inc., William D. Treeby, Don Brankel, Cecil Janway and the Louisiana District Council of the Assemblies of God.

After considering the pleadings, the arguments of counsel, and the law:

IT IS ORDERED, ADJUDGED AND DECREED that the Motions to Recall the Order Permitting the use of Video Depositions are DENIED;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Order Permitting the Use of Video Depositions is hereby modified as follows:

1. For all video depositions taken pursuant to this Order, the party who notices the video deposition shall provide an original stenographic transcript of the deposition at his cost in addition to the video tape of the deposition. All costs incurred in video taping the deposition are to be borne by the party noticing the deposition;

2. After the video taping of the deposition has been completed, the tape shall be delivered by the video reporter to the clerk of court within twenty four (24) hours after the completion of the deposition, whereupon the clerk of court shall place the video tape under seal. It shall be the responsibility of the attorney noticing the deposition to insure delivery of the tape.

3. No copies shall be made of any video taped deposition except for good cause shown pursuant to an Order of this Court.

4. Access may be had to the video tapes for viewing by counsel for any interested party upon motion requesting same duly noticed for hearing in accordance with the Order of this Court dated May 15, 1987.

5. All other provisions of the Protective Order issued in this matter on June 8, 1987 shall remain in full force and effect.

New Orleans, Louisiana, this 24th day of July, 1987.

/s/ Richard J. Ganucheau
JUDGE

CERTIFICATE

I hereby certify that the attached Consent Order was served on Hunter Lundy by telecopy and on all defense counsel by hand on Tuesday, July 21, 1987. Counsel for all parties who made appearances at the hearing on Monday, July 20, 1987 approved the Consent Order.

/s/ Denise M. Pilie'
Denise M. Pilie'